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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHRISTOPHER I. SIMMONS,)	Case No.: 1:07-cv-01058-LJO-SAB (PC)
)	
Plaintiff,)	
)	ORDER STAYING PROCEEDINGS IN THIS
v.)	MATTER PENDING RESOLUTION OF
)	PLAINTIFF’S MEDICAL CONDITION AND
GRISSOM, et al.,)	DIRECTING DEFENSE COUNSEL TO PROVIDE
)	A STATUS REPORT WITHIN THIRTY DAYS
Defendants.)	
)	[ECF Nos. 105, 107]
)	

Plaintiff Christopher I. Simmons is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On January 12, 2015, Plaintiff filed a motion to extend the scheduling deadlines pending receipt of his legal materials. (ECF No. 105.)

On January 15, 2015, Defendants filed a statement of non-opposition. The Court acknowledges and appreciates defense counsel’s diligence in addressing Plaintiff’s situation and compliance with the Local Rules by filing a response to Plaintiff’s motion.

On July 22, 2014, Defendants Akanno, Grissom, St. Lucia, and Rients filed an answer to Plaintiff’s first amended complaint. (ECF No. 89.) On July 23, 2014, the Court issued a discovery and scheduling order, and the deadline for discovery is set to expire on March 23, 2015. (ECF No. 90.)

///

1 In his motion, Plaintiff indicates that he was recently transferred to Atascadero State Hospital
2 and is presently without his legal materials which are in the custody of the California Department of
3 Corrections and Rehabilitation (CDCR). Without his legal materials Plaintiff has been unable to
4 conduct discovery. Plaintiff requests the Court make an allowance for the time he has been without
5 his materials, and he requests the Court “issue an order so that Plaintiff’s legal materials can be
6 expeditiously provided to him to allow him to proceed” with discovery. (ECF No. 105, Mot. p. 1.)

7 After receiving notice of Plaintiff’s motion, defense counsel immediately contacted A.
8 DeLong, the litigation coordinator at Atascadero State Hospital. Ms. DeLong confirmed that Plaintiff
9 was transferred to Atascadero from the California Medical Facility on December 5, 2014, as a “Code
10 2684-Psych & Return” patient. Accordingly to Ms. DeLong, this code is reserved for CDCR inmates
11 who are transferred to Department of State Hospitals for psychiatric treatment. (Delgado Decl. at ¶ 4.)
12 Ms. DeLong explained that because “2684 transfers” are only temporary, the inmates’ personal
13 property is not transferred with them. (Id.) Inmates transferred under this code are returned to the
14 sending institution as soon as they are psychiatrically stable. (Id.) Ms. DeLong indicated this is the
15 reason why Plaintiff does not have his legal property at Atascadero. (Id.) She was not able to provide
16 an estimate of the time when Plaintiff will be returned to the California Medical Facility. (Id.)

17 In light of Plaintiff’s present circumstances as explained and confirmed by Ms. DeLong,
18 defense counsel does not oppose Plaintiff’s motion to modify the scheduling order. Defendants
19 request, however, that in lieu of resetting any dates now, the Court impose a brief stay of the
20 proceedings until after Plaintiff’s medical issues are resolved and he has returned to the California
21 Medical Facility, where his legal property is located. Defense counsel submits that he will provide a
22 status report every thirty days at the Court’s request.

23 On the basis of good cause, IT IS HEREBY ORDERED that:

- 24 1. Plaintiff’s motion is GRANTED and the instant proceedings are stayed until Plaintiff’s
25 return to the California Medical Facility;
- 26 2. Defense counsel is directed to file a status report within thirty days from the date of
27 service of this order and every thirty days thereafter until Plaintiff is return to the
28 California Medical Facility. If counsel becomes aware of circumstances that would

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warrant the status report to be filed more or less than every thirty days, counsel may notify the Court of such circumstance; and

3. After Plaintiff is returned to the California Medical Facility, the Court will issue a subsequent briefing schedule as to the discovery and dispositive motion deadlines.

IT IS SO ORDERED.

Dated: January 16, 2015



UNITED STATES MAGISTRATE JUDGE