

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEITH DUANE ARLINE, JR., Plaintiff, v. KEN CLARK, Defendant. CASE NO. 1:07-cv-01097-LJO-GBC (PC) ORDER GRANTING MOTION FOR MODIFICATION OF SCHEDULING ORDER (ECF No. 76)

ORDER

Plaintiff Keith Duane Arline, Jr. ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 18, 2011, Defendant filed a Motion to Modify Scheduling Order requesting a nunc pro tunc extension of the May 16, 2011 dispositive motions deadline and that the Motion for Summary Judgment (amended), filed May 19, 2011, be accepted by the Court. (ECF No. 76 & 79.) Defendant states that the "amended" Motion for Summary Judgment merely corrects an error, which was pointed out by Plaintiff on May 18, 2011. In the Motion for Summary Judgment filed May 6, 2011 (ECF No. 70), Plaintiff's Eighth Amendment claim was erroneously referred to as an Eighth Amendment retaliation claim. (Id.)

The dispositive motions deadline was May 16, 2011. (ECF No. 52.) Defendant filed his Motion for Summary Judgment on May 6, 2011. (ECF No. 70.) Plaintiff pointed out in the error in a filing he made on May 18, 2011. (ECF No. 75.) On the same day, Defendant

1 filed this motion and an "amended" Motion for Summary Judgment.¹ (ECF No. 76 & 77.)

2 For good cause shown, Defendant's Motion for Modification of Scheduling Order is
3 GRANTED. Defendant's Motion for Summary Judgment filed May 19, 2011 (ECF No. 79)
4 is accepted as timely.

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8 IT IS SO ORDERED.

9 Dated: May 23, 2011

10 
11 UNITED STATES MAGISTRATE JUDGE

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28 ¹ Defendant's simultaneously filed "Amended" Motion for Summary Judgment was rejected by the
Clerk one day after filing, May 19, 2011. (ECF No. 78.) Defendant refiled the pleading on May 19, 2011.
(ECF No. 79.)