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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MONTE HANEY, Plaintiff, v. DARREL G. ADAMS, et al., Defendants.	CASE NO. 1:07-cv-01104-AWI-GBC (PC) ORDER STRIKING PLAINTIFF’S CROSS MOTION FOR SUMMARY JUDGMENT AS UNTIMELY (Doc. 63) ORDER STRIKING DEFENDANTS’ REPLY FILED AUGUST 4, 2011 (Doc. 65) ORDER STRIKING MOTION TO FILE REPLY TO DEFENDANTS’ REPLY FILED AUGUST 4, 2011 / (Doc. 69)
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Plaintiff Monte Haney (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on July 5, 2007. Doc. 1. This action is proceeding on Plaintiff’s first amended complaint filed on July 16, 2008, for: 1) excessive force on December 14, 2006, in violation of the Eighth Amendment by defendants J.G. Oaks and D. Silva; 2) deprivation of outdoor exercise from December 15, 2006 to March 15, 2007, in violation of the Eighth Amendment by defendants R. Botello, M. Rickman, F. Oliver, G. Torres, T. Cano; and 3) deprivation of outdoor exercise of African-American inmates in violation of the Fourteenth Amendment equal protection clause by defendants R. Botello, M. Rickman, F. Oliver, G. Torres, T. Cano. Doc. 22; Doc. 28; Doc. 32.

On August 19, 2010, the Court issued a discovery and scheduling order in which the deadline to file dispositive motions was on June 30, 2011. Doc. 36. On June 21, 2011, Defendants filed a

1 motion for summary judgment. Doc. 54; Doc. 55. On July 29, 2011, Plaintiff filed a cross-motion
2 for summary judgment. Doc. 63. On August 4, 2011, the Court granted Plaintiff's motion for
3 extension of time to file an opposition to Defendants' motion for summary judgment and Defendants
4 construed Plaintiff's cross motion for summary judgment as an opposition to their original motion
5 for summary Judgment and filed a reply. Doc. 64; Doc. 65. On August 22, 2011, the Court granted
6 limited additional discovery and relieved Plaintiff of the obligation of opposing Defendants' motion
7 for summary judgment until resolution of pending discovery issue. Doc. 67. On August 23, 2011,
8 Plaintiff motioned for extension of time to file a reply to Defendants' response in Doc. 65 and seeks
9 to construe Defendants' response as an opposition to his cross-motion for summary judgment. Doc.
10 69.

11 Although Plaintiff was granted an extension to file an opposition to Defendants' motion for
12 summary judgment, Plaintiff did not motion to amend the Court's scheduling and discovery order
13 filed on August 19, 2010. Therefore, Plaintiff's cross-motion for summary judgment is untimely.

14 Based on the foregoing, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff's cross motion for summary judgment filed on July 29, 2011, is HEREBY
16 STRICKEN (Doc. 63);
- 17 2. Defendants' reply to Plaintiff's cross motion for summary judgment, filed August
18 4, 2011, is HEREBY STRICKEN (Doc. 65); and
- 19 3. Plaintiff's motion filed on August 23, 2011, for leave to file a reply to Defendants'
20 reply is HEREBY STRICKEN (Doc. 69).

21
22 IT IS SO ORDERED.

23 Dated: November 16, 2011


24 UNITED STATES MAGISTRATE JUDGE