

1
2
3
4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
6

7 STEVEN JOSEPH NOBLE IV,

8 Plaintiff,

9 vs.

10 LT. V. J. GONZALEZ,

11 Defendant.

1:07-cv-01111-LJO-GSA-PC

ORDER GRANTING PLAINTIFF'S MOTION
(Doc. 56.)

ORDER REQUIRING PLAINTIFF TO
EITHER:

- 12 (1) WITHDRAW HIS EXISTING
13 OPPOSITION TO MOTION FOR
14 SUMMARY JUDGMENT AND
15 FILE ONE ALL-INCLUSIVE
16 AMENDED OPPOSITION, OR
17
18 (2) NOTIFY THE COURT HE
19 INTENDS TO STAND ON HIS
20 EXISTING OPPOSITION

DEADLINE FOR PLAINTIFF TO FILE
AMENDED OPPOSITION OR NOTIFY
COURT: **OCTOBER 30, 2013**

ORDER GRANTING DEFENDANT'S
MOTION FOR EXTENSION OF TIME TO
FILE REPLY
(Doc. 57.)

21 **I. BACKGROUND**

22 Steven Joseph Noble IV ("Plaintiff") is a state prisoner proceeding pro se and in forma
23 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the original
24 Complaint on July 31, 2007. (Doc. 1.) This action now proceeds on the First Amended
25 Complaint filed on February 24, 2009, against defendant Lieutenant V. J. Gonzalez
26 ("Defendant"), for retaliation in violation of the First Amendment.¹ (Doc. 15.)

27
28 ¹ On March 8, 2012, the court dismissed Plaintiff's due process claim against Defendant, for failure to
state a claim. (Doc. 33.)

1 On May 29, 2013, Defendant filed a motion for summary judgment, which is pending.
2 (Doc. 49.) On September 5, 2013, Plaintiff filed an opposition to the motion. (Doc. 54.)

3 On September 9, 2013, Plaintiff filed a motion to supplement his opposition, and
4 Defendant filed a motion for extension of time to file a reply to Plaintiff's opposition. (Docs.
5 56, 57.)

6 **II. PLAINTIFF'S MOTION TO SUPPLEMENT OPPOSITION**

7 Plaintiff requests leave to supplement his opposition to Defendant's motion for
8 summary judgment, once he has received further discovery responses from Defendant pursuant
9 to the court's order of August 26, 2013.² Plaintiff argues that the expected discovery responses
10 may reveal facts that would preclude summary judgment. Plaintiff also argues that judicial
11 economy would be served if the court stayed this action, or delayed consideration of the motion
12 for summary judgment, until after Plaintiff filed a supplemental opposition.

13 The Court finds good cause at this juncture to allow Plaintiff an opportunity to
14 withdraw his existing opposition to Defendant's pending motion and file an all-inclusive
15 amended opposition, if he so wishes. The Court will not consider multiple oppositions,
16 however, and Plaintiff has two options upon receipt of this order. Plaintiff may either (1) stand
17 on his previously-filed opposition or (2) withdraw it and file one, all-inclusive amended
18 opposition. The amended opposition, if any, must be complete in itself and must not refer back
19 to any of the opposition documents Plaintiff filed on September 5, 2013. L.R. 220.³ Plaintiff
20 shall be granted **until October 30, 2013**, to withdraw his previously-filed opposition and file an
21 amended opposition. Should Plaintiff require a further extension of time, he should file a
22 motion before the expiration of the deadline.

23
24 ² The court's order of August 26, 2013 granted in part Plaintiff's motion to compel and ordered
25 Defendant to make further or amended responses within thirty days. (Doc. 53.)

26 ³Local Rule 220 provides, in part: "Unless prior approval to the contrary is obtained from the Court,
27 every pleading to which an amendment or supplement is permitted as a matter of right or has been allowed by
28 court order shall be retyped and filed so that it is complete in itself without reference to the prior or superseded
pleading. No pleading shall be deemed amended or supplemented until this Rule has been complied with. All
changed pleadings shall contain copies of all exhibits referred to in the changed pleading."

1 **III. DEFENDANT’S MOTION FOR EXTENSION OF TIME**

2 In light of Plaintiff’s motion for leave to supplement his opposition to the motion for
3 summary judgment, Defendant requests an extension of time to reply to Plaintiff’s opposition.
4 Good cause appearing, Defendant’s motion shall be granted.

5 **IV. CONCLUSION**

6 Accordingly, it is HEREBY ORDERED that:

- 7 1. Plaintiff’s motion, filed on September 9, 2013, is GRANTED;
- 8 2. **On or before October 30, 2013**, Plaintiff is required to either:
- 9 (1) Withdraw his existing opposition filed on September 5, 2013, and file an
10 all-inclusive amended opposition to Defendant’s’ motion for summary
11 judgment of May 29, 2013; or
- 12 (2) Notify the court in writing that he wishes to stand on his existing
13 opposition of September 5, 2013;
- 14 3. Defendant’s motion for extension of time, filed on September 9, 2013, is
15 GRANTED;
- 16 4. If Plaintiff files an amended opposition, Defendant may file a reply to the
17 amended opposition within twenty days of the date the amended opposition is
18 filed;
- 19 5. If Plaintiff notifies the court in writing that he wishes to stand on his existing
20 opposition of September 5, 2013, Defendant may file a reply to the existing
21 opposition within twenty days of the date Plaintiff files the written notice.

22
23
24
25 IT IS SO ORDERED.

26 Dated: **September 15, 2013**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE