

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HOWARD YOUNG,

Plaintiff,

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION,
et al.,

Defendants.

1:07-cv-01121-GSA-PC

ORDER DENYING MOTION FOR
FREE COPIES OR FOR A COURT ORDER
DIRECTING PRISON OFFICIALS
(Doc. 76.)

ORDER GRANTING PLAINTIFF
ADDITIONAL TIME TO SUBMIT
REQUIRED COPIES TO INITIATE
SERVICE

THIRTY DAY DEADLINE FOR
PLAINTIFF TO SUBMIT TWO COPIES
OF SECOND AMENDED COMPLAINT

_____ /

Howard Young (“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 the Complaint initiating this action on August 2, 2007. (Doc. 1.) This action now proceeds on the Second Amended Complaint filed on August 31, 2009, against defendant Barron for retaliation in violation of the First Amendment.¹ (Doc. 74.)

On September 28, 2010, the Court issued an order requiring Plaintiff to complete and submit documents to initiate service upon defendant Barron, within thirty days. (Doc. 75.) Plaintiff

¹All other claims and defendants were dismissed from this action by the Court on September 28, 2010. (Doc. 75.)

1 responded timely to the Court's order and submitted some of the service documents; however,
2 Plaintiff failed to submit two copies of the Second Amended Complaint, as required by the order.
3 On October 13, 2010, Plaintiff filed a motion for the Court to provide free copies of the Second
4 Amended Complaint and initiate service, or in the alternative, to issue an order directing prison
5 officials to make copies and allow him access to the law library. (Doc. 76.)

6 Plaintiff claims he lacks access to the law library and is unable to make the copies required
7 by the Court, because the prison is on lockdown due to a riot occurring on September 10, 2010.

8 The Court notes that the Second Amended Complaint is one-hundred-twenty-four pages long,
9 and two copies are required. The Clerk does not provide free copies of court documents to parties,
10 and in forma pauperis status does not include the cost of copies.² Therefore, Plaintiff's motion for
11 free copies shall be denied.

12 Plaintiff's motion for a court order shall also be denied. Prison administrators "should be
13 accorded wide-ranging deference in the adoption and execution of policies and practices that in their
14 judgment are needed to preserve internal order and discipline and to maintain institutional security."
15 Whitley v. Albers, 475 U.S. 312, 321-322 (1986) (*quoting* Bell v. Wolfish, 441 U.S. 520, 547
16 (1970)). Moreover, the Court lacks jurisdiction to issue an order requiring the prison to make copies
17 for Plaintiff or to allow him access to the law library. See Zepeda v. United States Immigration
18 Service, 753 F.2d 719, 727 (9th Cir. 1985). However, given that the lockdown at the prison was
19 beyond Plaintiff's control, the Court shall grant Plaintiff an additional thirty days in which to submit
20 the copies required to initiate service. Should Plaintiff require a further extension of time, he should
21 file a motion before the thirty days have expired.

22 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that:

- 23 1. Plaintiff's motion for free copies is DENIED;
- 24 2. Plaintiff's motion for a court order directing prison officials to make copies and allow
25 him access to the law library is DENIED;

26
27 ²When the Court served the September 28, 2010 order, the Court mailed Plaintiff one copy of the Second Amended
28 Complaint, to enable him to make copies in compliance with the order. (Doc. 75.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Plaintiff is granted an extension of time in which to comply with the Court's order of September 28, 2010; and

4. Within thirty days, Plaintiff shall submit to the Court two copies of his Second Amended Complaint, filed on August 31, 2009, to initiate service of process.

IT IS SO ORDERED.

Dated: October 20, 2010

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE