

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

VALENTINE E. UNDERWOOD,

1:08-cv-00986-GSA-PC

Plaintiff,

ORDER GRANTING PLAINTIFF'S
MOTION TO SUBMIT THREE
AFFIDAVITS IN SUPPORT OF
OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT
(Doc. 129.)

vs.

M. KNOWLES, et al.,

ORDER FOR CLERK TO FILE THREE
AFFIDAVITS AS PLAINTIFF'S EXHIBITS
IN SUPPORT OF HIS OPPOSITION

Defendants.

Valentine Underwood ("Plaintiff") is a prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on July 17, 2008. (Doc. 1.) This action now proceeds on the original Complaint, against defendants Correctional Officer ("C/O") M. Northcutt and C/O S. Martin for retaliation, in violation of the First Amendment; and against defendants C/O M. Northcutt, C/O S. Martin, C/O D. Caviness, C/O A. Trujillo, and C/O P. Truitt, ("Defendants") for use of excessive force, in violation of the Eighth Amendment.¹ The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C.

¹Defendant Seth Lantz was dismissed from this action on July 18, 2011, via Plaintiff's motion to dismiss. (Doc. 107.) Defendant J. Fambrough was dismissed from this action on December 9, 2011, via Plaintiff's motion to dismiss. (Doc. 121.) All other claims and defendants were dismissed by the Court on October 21, 2009, based on Plaintiff's failure to state a claim. (Doc. 31.)

1 § 636(c), and on June 15, 2011, this case was reassigned to the undersigned for all further
2 proceedings. (Docs. 4, 97, 102.)

3 Defendants filed a motion for summary judgment on February 17, 2012. (Doc. 122.) On
4 April 26, 2012, Plaintiff filed an opposition to the motion. (Doc. 127.) Four days later, on April
5 30, 2012, Plaintiff filed a motion to submit three certified affidavits in support of his opposition.
6 (Doc. 129.) Defendants have not responded to Plaintiff's motion.

7 Plaintiff explains that he was unable to submit the certified affidavits with his opposition
8 because he did not receive the affidavits until after he had submitted the opposition. Good cause
9 appearing, Plaintiff's motion shall be granted, and the certified affidavits shall be filed as exhibits
10 to the opposition.

11 Therefore, based on the foregoing, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's motion to submit three certified affidavits in support of his opposition
13 to Defendants' motion for summary judgment is GRANTED; and
- 14 2. The Clerk is DIRECTED to file Plaintiff's three affidavits, attached to the Motion
15 filed on April 30, 2012 (Doc. 129), as Plaintiff's exhibits in support of his
16 opposition (Doc. 127) to Defendants' motion for summary judgment.

17
18 IT IS SO ORDERED.

19 **Dated: June 8, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE