

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

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

SOPHAN POK,
CDCR # T-88438,

Plaintiff,

vs.

TONY HEDGPETH, Warden,
Kern Valley State Prison,

Defendant.

Civil No. 08-1029 JAH (NLS)

**ORDER PROVIDING NOTICE
TO PRO SE PRISONER
OF REQUIREMENTS FOR
OPPOSING SUMMARY
JUDGMENT PURSUANT TO
KLINGELE / RAND AND
SETTING BRIEFING
SCHEDULE**

This notice is required to be given to Plaintiff pursuant to *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) (en banc) and *KlingeLe v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988):¹

Defendant has filed a Motion to Dismiss and a Motion for Summary Judgment pursuant to FED.R.CIV.P. 56 [Doc. No. 31], by which he seeks to have your case dismissed. A Motion for Summary Judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

///

¹ *KlingeLe* and *Rand* together require the district court “as a bare minimum,” to ensure that a pro se prisoner has “fair notice of the requirements of the summary judgment rule.” *KlingeLe*, 849 F.2d at 411 (quotations omitted); *Rand*, 154 F.3d at 962.

1 Rule 56 tells you what you must do in order to oppose a Motion for Summary Judgment.
2 Generally, summary judgment must be granted when there is no genuine issue of material fact--
3 that is, if there is no real dispute about any fact that would affect the result of your case, and the
4 party who asked for summary judgment is entitled to judgment as a matter of law, which will
5 end your case. When a party you are suing makes a motion for summary judgment that is
6 properly supported by declarations (or other sworn testimony), you cannot simply rely on what
7 your complaint says. Instead, you must set out specific facts in declarations, depositions,
8 answers to interrogatories, or authenticated documents, as provided by Rule 56(e), that
9 contradict the facts shown in the defendants' declarations and documents and show that there
10 is a genuine issue of material fact for trial. If you do not submit your own evidence in
11 opposition, summary judgment, if appropriate, may be entered against you. If summary
12 judgment is granted, your case will be dismissed and there will be no trial.

13 **Conclusion and Order**

14 Accordingly, **IT IS ORDERED** that Defendant's Motion for Summary Judgment has
15 been calendared for hearing on **Monday, August 2, 2010**, at 2:30 p.m. in Courtroom 11.² Your
16 Opposition (including any supporting documents) must be filed with the Court and served on
17 all parties by **Monday, July 19, 2010**. Defendant is instructed that Plaintiff shall *not* be limited
18 in the amount of copies necessary to prepare his Opposition. *See* CAL. CODE REGS. tit. 15,
19 § 3162(c). If you do not wish to oppose Defendant's Motion, you should file and serve a
20 "Notice of Non-Opposition" by that same date to let both the Court and Defendant know that
21 the Motion is unopposed. If you do file and serve an Opposition, Defendant must file and serve
22 his Reply to that Opposition by **Monday, July 26, 2010**.

23 ///

24 ///

25 ///

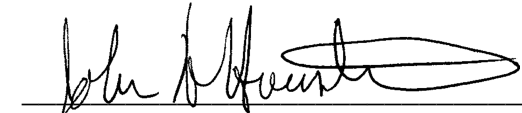
26

27 ² While this case was randomly referred upon filing to the Honorable Magistrate Judge Nita L.
28 Stormes pursuant to 28 U.S.C. § 636(b)(1)(B) for disposition, the Court has determined that a Report
and Recommendation regarding the disposition of Defendant's Motion for Summary Judgment is
unnecessary.

1 At the time appointed for hearing, the Court will, in its discretion, consider Defendant's
2 Motion for Summary Judgment pursuant to FED.R.CIV.P. 56 as submitted on the papers, and will
3 issue its written opinion soon thereafter. Thus, unless otherwise ordered, no appearances are
4 required and no oral argument will be heard.

5 IT IS SO ORDERED.

6
7 DATED: June 16, 2010

8 
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
HON. JOHN A. HOUSTON
United States District Judge