

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**

ANTHONY DAVIS  
CDCR #T-48683,  
  
Plaintiff,  
  
vs.  
  
A. LYNN, et al.,  
  
Defendants.

Civil No. 1:08cv1245 BTM (BLM)

**ORDER GRANTING PLAINTIFF'S  
REQUEST FOR EXTENSION OF  
TIME TO FILE OPPOSITION TO  
DEFENDANTS' MOTION TO  
DISMISS AND REISSUING MOTION  
HEARING DATE**

Currently pending before this Court is Defendants' Motion to Dismiss Plaintiff's Complaint pursuant to FED.R.CIV.P. 12(b)(6) [Doc. No. 16]. The Court issued a scheduling order requiring Plaintiff to file an Opposition by Friday, August 21, 2009 and setting the hearing date for September 4, 2009. Defendants have notified the Court that Plaintiff has requested an extension of time to file his Opposition due to his impending transfer to another institution. Defendants do not oppose this request. *See* Defs.' Notice of Non Opposition at 1-2. Accordingly, the Court vacates the dates previously set and sets the following briefing schedule:

- 1) Defendants' Motion to Dismiss is calendared for hearing on **Friday, October 9, 2009** at 11:00 a.m. in Courtroom 15.
- 2) Plaintiff, if he chooses, may file an Opposition to Defendants' Motion and serve it upon Defendants' counsel of record no later than **Friday, September 25, 2009**.

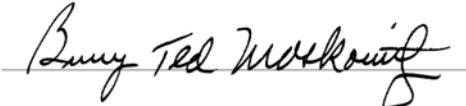
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3) Defendants may file a Reply to Plaintiff's Opposition, and serve it upon Plaintiff no later than **Friday, October 2, 2009**.

At the time appointed for hearing, the Court will consider Defendants' Motion to Dismiss pursuant to FED.R.CIV.P. 12(b)(6) as submitted on the papers, and will issue its written opinion soon thereafter. Thus, no appearances are required and no oral argument will be heard.

**IT IS SO ORDERED.**

DATED: July 27, 2009

  
Honorable Barry Ted Moskowitz  
United States District Judge