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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROBERTO A. SOTELO,

Plaintiff,

v.

T. BIRRING, et al.,

Defendants.

CASE NO. 1:08-cv-01342-LJO-SKO PC

ORDER RELIEVING PLAINTIFF
OF OBLIGATION TO RESPOND TO
SUMMARY JUDGMENT MOTION
PENDING APPOINTMENT OF COUNSEL

(Docs. 34 and 41)

ORDER DENYING PLAINTIFF’S SECOND
MOTION FOR AN EXTENSION OF TIME TO
RESPOND AS MOOT

(Doc. 47)

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Plaintiff Roberto A. Sotelo, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on September 10, 2008. This action is proceeding on Plaintiff’s amended complaint, filed February 24, 2009, against Defendants Biring, Das, Diep, and Coleman for acting with deliberate indifference to Plaintiff’s medical needs, in violation of the Eighth Amendment.

On November 1, 2010, the Court issued an order referring this matter to the Pro Bono Program of the Eastern District of California for the appointment of voluntary counsel to represent Plaintiff in this action. 28 U.S.C. § 1915(e)(1); Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997). The Court has been informed that counsel is still being sought, but an appointment should be secured in the near future.

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1 In light of the pendency of this unresolved issue, Plaintiff is relieved of his obligation to file
2 an opposition or a statement of non-opposition to Defendants Biring and Das's motion for summary
3 judgment, which was filed on January 25, 2011.¹ Plaintiff's second motion for an extension of time
4 to file a response, filed March 25, 2011, shall be denied as moot in light of this order. Once counsel
5 is appointed to represent Plaintiff, the Court will review the case and issue an appropriate order,
6 which may include requesting the submission of status reports from the parties regarding further
7 discovery and motions.

8 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

- 9 1. Plaintiff is relieved of his obligation to file a response to Defendants Biring and
10 Das's motion for summary judgment pending the appointment of counsel to represent
11 Plaintiff; and
- 12 2. Plaintiff's second motion for an extension of time to file a response to Defendants
13 Biring and Das's motion for summary judgment, filed March 25, 2011, is DENIED
14 as moot.

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16 IT IS SO ORDERED.

17 **Dated: March 25, 2011**

18 /s/ Sheila K. Oberto
19 UNITED STATES MAGISTRATE JUDGE

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¹ Defendant Diep waived service and his response to the amended complaint is due on or before April 14, 2011. Service on Defendant Coleman is still in process.