

1
2
3
4
5
6

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

10 GREGORY MORRIS, CASE NO. CV F 09-0026 LJO GSA

11 Plaintiffs, **ORDER DENYING RELIEF FROM**
12 vs. **SUMMARY JUDGMENT**

12 || vs.

STATE BAR OF CALIFORNIA, et al.,

Defendants.

16 On August 9, 2010, Plaintiff filed a request for relief from this Court's Summary Judgment
17 Order. (Doc. 115, Court Order filed June 9, 2010.)

18 In considering plaintiff's request to be relieved from the Summary Judgment Order, the Court
19 stated:

20 "Here, plaintiff requests relief from the summary judgment order, but the motion is more directed at his motion to amend the complaint.

21 Plaintiff has failed to file a proposed opposition to the summary
22 judgment motion when he filed his motion for relief. The Court cannot
23 determine whether there is any need to provide relief without a proposed
24 opposition. Accordingly, the motion for relief from the summary
judgment order will be denied without prejudice.” (Doc. 161, Order Sept.
13, 2010.)

25 The Court granted plaintiff the opportunity to submit an opposition to the summary judgment, such that
26 the Court could consider whether plaintiff should be relieved of the Summary Judgment Order:

27 The motion for relief from the judgment judgment is DENIED, without
28 prejudice. Plaintiff may refile his motion to set aside the summary
judgment with his proposed opposition to the summary judgment motion,

1 no later than 14 days from the date of service of this order. Failure to file
2 timely the motion with the proposed opposition will result in denial of the
3 motion for relief with prejudice.” (Doc. 161, Order p. 5.)

4 Rather than comply with the Court’s order, and file a proposed opposition, plaintiff filed a
5 “Motion for Extension.” The motion, ostensibly, was to give plaintiff additional time to conduct
6 discovery and respond to the summary judgment. (See Doc. 163.) However, the substance of the
7 request for Extension was to grant discovery on claims that were not before the Court, and permit
8 discovery on claims which were proposed in plaintiff’s proposed amended complaint -- the warrantless
9 searches.¹ Plaintiff did not argue that he needed the discovery to oppose the summary judgment that was
10 before the Court, and from which he sought relief. Rather, plaintiff’s “Motion for Extension” was to
11 request discovery for potential claims in a proposed amended complaint, which were not yet before the
12 Court. This “Motion for Extension” does not respond, and does not address, the relief plaintiff originally
13 sought and for which the Court granted leave to file an opposition.

14 Accordingly, the documents that have been filed do not address the Summary Judgment Order,
15 and therefore this Court’s order on Defendant’s Summary Judgment is affirmed in its entirety.

16 **CONCLUSION**

17 For the foregoing reasons, plaintiff’s motion (Doc. 143) to be relieved of the Summary Judgment
18 Order is DENIED. The Court’s Order on Defendant’s Summary Judgment (Doc. 115) is affirmed in its
19 entirety.

20 IT IS SO ORDERED.

21 **Dated: October 8, 2010**

22 /s/ Lawrence J. O'Neill
23 UNITED STATES DISTRICT JUDGE

24

25

26

27

28

¹ “We need to develop the area of Supervisory liability and Policy, custom and procedures.” (Doc. 163, plaintiff’s request for discovery.)