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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY JOHNSON,

CASE NO. 1:09-cv-01264-AWI-SMS PC

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION TO
FILE A LATE RESPONSE TO DEFENDANTS’
UNDISPUTED FACTS AND STRIKING
PLAINTIFF’S RESPONSE TO DISPUTED
FACTS

v.

L. GONZALEZ, et al.,

Defendants.

(ECF Nos. 73, 74)

Plaintiff Anthony Johnson (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the complaint filed July 21, 2009, against Defendants L. Gonzales¹ and A. Murrieta for excessive force in violation of the Eighth Amendment. (ECF No. 1.) On June 6, 2011, findings and recommendations issued recommending granting Defendants’ motion for summary judgment and notifying the parties that objections were to be filed within thirty days. (ECF No. 70.) On July 8, 2011, Plaintiff filed a motion to file a late response to Defendant’s undisputed facts in their motion for summary judgment and a response to Defendants disputed facts. Plaintiff had the opportunity to oppose Defendants’ motion for summary judgment and did file an opposition. The Local Rules provide for a motion, an opposition, and a reply. Neither the Local Rules nor the Federal Rules provide the right to file a surreply, and the Court neither requested one nor granted a request on the behalf of Plaintiff to file one. Defendant’s motion was deemed submitted upon the filing of the

¹The Court will refer to Defendant as Gonzales, the spelling used in Defendants’ motion.

1 reply. Local Rule 230(m). The arguments of the parties have been considered and a findings and
2 recommendation issued. Plaintiff is not now entitled to supplement his opposition to Defendants'
3 motion for summary judgment.

4 Accordingly, Plaintiff's motion to file a late response to Defendants undisputed facts is
5 HEREBY DENIED and the response to Defendants' undisputed facts is HEREBY STRICKEN from
6 the record.

7
8 IT IS SO ORDERED.

9 **Dated: July 26, 2011**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE