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

FLOYD SCOTT,

Plaintiff,

v.

J. PALMER, et al.,

Defendants.

CASE NO. 1:09-cv-01329-LJO-SKO PC

ORDER DENYING DEFENDANTS’ MOTION FOR AN EXTENSION OF TIME TO FILE OBJECTIONS, WITH PREJUDICE

(Doc. 105)

ORDER (1) ADOPTING FINDINGS AND RECOMMENDATIONS IN FULL, (2) DENYING DEFENDANTS’ MOTION TO DECLARE PLAINTIFF A VEXATIOUS LITIGANT, ISSUE A PREFILING ORDER, AND REQUIRE PLAINTIFF TO FURNISH SECURITY, AND (3) DENYING DEFENDANTS’ MOTION TO STRIKE SURREPLY AS MOOT

(Docs. 92, 97, and 102)

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Floyd Scott, a state prisoner proceeding pro se. Plaintiff claims arise from the alleged use of excessive force, in violation of his rights under the Eighth Amendment of the United States Constitution. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

**I. Motion for Extension of Time to Object**

Pending before the Court is Defendants’ motion for a thirty-five day extension of time to file objections to the Magistrate Judge’s findings and recommendations of November 16, 2012.

The parties were granted thirty days within which to file objections, which constitutes a generous discretionary enlargement of the fourteen-day objection period the parties are entitled to under the applicable rules and which is more than ample. Fed. R. Civ. P. 72; Local Rule 304(b).

1 Defendants waited until the day their objections were due to file their motion and they failed  
2 to show good cause in support of their motion. Fed. R. Civ. P. 6(b)(1); Local Rule 144(d). Local  
3 Rule 144(d) expressly provides that requests “brought on the required filing date . . . are looked upon  
4 with disfavor.” The press of business generally does not constitute good cause, *see Pioneer Inv.*  
5 *Serv. Co. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 398, 113 S.Ct. 1489, 1499 (1993);  
6 *Selph v. Council of City of Los Angeles*, 593 F.2d 881, 883 (9th Cir. 1979), *superceded in part by*  
7 *amendment*, Fed. R. App. R. 4(a)(5), *as recognized in United Artists Corp. v. La Cage Aux Follies,*  
8 *Inc.*, 771 F.2d 1265, 1269 n.1 (9th Cir. 1985), and the supporting declaration of counsel does not  
9 provide any basis for finding that the extension was sought as soon as the need for it was apparent,  
10 Local Rule 144(d). Given the totality of these circumstances, Defendants’ motion for an extension  
11 of time to file objections is denied.

12 **II. Findings and Recommendations**

13 The Magistrate Judge issued findings and recommendations on November 16, 2012. The  
14 parties were provided thirty days within which to file objections and no timely objections were filed.

15 Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of this case.  
16 Having carefully reviewed the entire file, the Court finds the findings and recommendations to be  
17 supported by the record and by proper analysis.

18 **III. Order**

19 Accordingly, it is HEREBY ORDERED that:

- 20 1. Defendants’ motion for an extension of time to file objections, filed on December 20,  
21 2012, is DENIED, with prejudice;
- 22 2. The findings and recommendations filed on November 16, 2012, are adopted in full;
- 23 3. Defendants’ motion to declare Plaintiff a vexatious litigant and issue a pre-filing  
24 order against him and for an order requiring Plaintiff to furnish security, filed on June  
25 22, 2012, is DENIED, with prejudice; and

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