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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MARLIN LATTEREAL ROYAL,

CASE NO. 1:09-cv-01407-BAM PC

Plaintiff,

ORDER DISCHARGING ORDER TO SHOW
CAUSE WHY DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT SHOULD NOT BE
GRANTED FOR PLAINTIFF’S FAILURE TO
FILE OPPOSITION

v.

S. KNIGHT, et al.,

(ECF No. 47)

Defendants.

_____/

Plaintiff Marlin Lattereal Royal (“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 first amended complaint against Defendant Knight for excessive force in violation of the Eighth Amendment and retaliation in violation of the First Amendment, and Defendant Clark for failure to protect in violation of the Eighth Amendment. (ECF No. 36.)

On October 30, 2012, Defendants filed a motion for summary judgment. Plaintiff failed to file an opposition or a statement of non-opposition to the motion. Local Rule 230(l). On December 6, 2012, the Court ordered Plaintiff to file a response to Defendants’ motion for summary judgment within thirty (30) days. (ECF No. 44.) Plaintiff failed to file a response. Accordingly, on January 28, 2013, the Court ordered Plaintiff to show cause why summary judgment should not be granted in favor of defendants based on Plaintiff’s failure to file an opposition. (ECF No. 47.) The Court informed Plaintiff that he could comply with the Court’s show cause order by filing a written

1 response or by filing his opposition to the motion for summary judgment.

2 On February 11, 2013, Plaintiff filed his opposition to defendant's motion for summary
3 judgment. Based on Plaintiff's filing, the order to show cause issued on January 28, 2013, is
4 HEREBY DISCHARGED.

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6 IT IS SO ORDERED.

7 **Dated: February 19, 2013**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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