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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THOMAS GOOLSBY,

Plaintiff,

v.

CARRASCO, et al.,

Defendants.

CASE NO. 1:09-cv-01650-DLB PC

ORDER REQUIRING DEFENDANT TO
RESPOND TO MOTION FOR
PRELIMINARY INJUNCTION WITHIN
TWENTY DAYS

(Docs. 3, 15)

ORDER GRANTING RULE 56(F) MOTION
(Doc. 23)

OPPOSITION DUE BY JULY 20, 2010

Plaintiff Thomas Goolsby (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation. Plaintiff is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s complaint, filed September 17, 2009, against Defendant Gonzales for conditions of confinement in violation of the Eighth Amendment. Pending before the Court is Plaintiff’s motion for a preliminary injunction and temporary restraining order, and Defendant’s motion for extension of time to file an opposition to Plaintiff’s motion for summary judgment.

I. Preliminary Injunction Motion

On September 17, 2009, Plaintiff filed a document entitled “Memorandum of Points and Authorities in Support of T.R.O. And Order to Show Cause.” (Doc. 3.) Because Plaintiff is proceeding pro se, the Court construes this as a motion for preliminary injunction. On January 29, 2010, Plaintiff filed a motion for an order adjudicating this motion. (Doc. 15.) Because Defendant has appeared in this action, the Court will require Defendant to respond to the motion.

1 Accordingly, Defendant is HEREBY ORDERED to respond to Plaintiff's motion for preliminary
2 injunction, filed September 17, 2009, within twenty days from the date of service of this order.
3 Plaintiff's reply, if any, is due within fourteen days after being served with Defendant's response.

4 **II. Motion For Extension of Time To File Opposition**

5 On May 3, 2010, Defendant filed an ex parte motion for an extension of time to July 20,
6 2010, for filing an opposition to Plaintiff's motion for summary judgment. (Doc. 23.) Defendant
7 contends that this motion is necessary pursuant to Federal Rule of Civil Procedure 56(f). Rule
8 56(f) provides:

9 If a party opposing the motion shows by affidavit that, for specified reasons, it
cannot present facts essential to justify its opposition, the court may:

- 10 (1) deny the motion;
11 (2) order a continuance to enable affidavits to be obtained, depositions to be
12 taken, or other discovery to be undertaken; or
13 (3) issue any other just order.

14 The Court opened discovery on March 31, 2010. Defendant's counsel attests that
15 discovery has yet to be completed in this case, and Plaintiff has not been deposed. (Rebecca L.
16 Bach Decl.) Defendant has presented good cause for an extension of time to file an opposition.

17 Accordingly, it is HEREBY ORDERED that Defendant's Rule 56(f) motion is
18 GRANTED. Defendant is granted up to and including July 20, 2010, in which to file his
19 opposition to Plaintiff's motion for summary judgment. Plaintiff's reply, if any, is due within
20 fourteen (14) days after Defendant's response is served.

21 IT IS SO ORDERED.

22 **Dated: May 4, 2010**

23 **/s/ Dennis L. Beck**
24 **UNITED STATES MAGISTRATE JUDGE**