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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN E. FIELDS,

Plaintiff,

vs.

P. PATTERSON, et al.,

Defendants.

1:10-cv-01700-LJO-GSA-PC

ORDER GRANTING PLAINTIFF'S
MOTION TO WITHDRAW MOTION TO
CONDUCT FURTHER DISCOVERY TO
OPPOSE SUMMARY JUDGMENT
(Doc. 58.)

ORDER WITHDRAWING MOTIONS
FROM COURT'S CALENDAR
(Docs. 38, 52.)

Kevin E. Fields ("Plaintiff") is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on September 17, 2010. (Doc. 1.) This action now proceeds on the First Amended Complaint filed on May 31, 2013, on Plaintiff's Eighth Amendment claims against defendant Correctional Officer P. Patterson for use of excessive force.¹ (Doc. 16.)

On March 23, 2015, Plaintiff filed a motion for the court "to disregard [his] request for modification of discovery and scheduling order to conduct and complete discovery to oppose

¹On February 12, 2015, the court dismissed Plaintiff's state law claims against defendants Molina and Finley and retaliation claims against defendants Patterson and Molina, on Plaintiff's Rule 41 motion to dismiss. (Doc. 51.) The court also dismissed defendants Molina and Finley from this action, based on the dismissal of all of the claims against them. (Id.) On March 12, 2014, the Court previously dismissed all other claims and defendants from this action, under Rule 18(a) or for Plaintiff's failure to state a claim. (Doc. 24.)

1 summary judgment and possibly prepare for trial.” (Doc. 58.) Plaintiff explains that his
2 primary care provider has increased his medications, causing him to experience disorientation
3 and some short term memory loss. For this reason, Plaintiff seeks to withdraw his motion and
4 proceed to file an opposition to Defendants’ motion for summary judgment, which is due on
5 April 20, 2015.

6 Two motions by Plaintiff requesting further discovery are pending. The first motion,
7 filed on October 30, 2014, seeks an order deferring the court’s ruling on Defendants’ motion
8 for partial summary judgment pending completion of discovery. (Doc. 38.) The second
9 motion, filed on February 12, 2015, seeks a ninety-day extension of the deadline to conduct
10 discovery, to oppose summary judgment and possibly prepare for jury trial. (Doc. 52.) In both
11 motions, Plaintiff seeks to conduct further discovery to oppose Defendants’ motion for
12 summary judgment. Based on the foregoing, the court finds good cause to grant Plaintiff’s
13 motion and withdraw the two pending motions from the court’s calendar.

14 Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff’s motion to withdraw, filed on March 23, 2015, is GRANTED;
- 16 and
- 17 2. Plaintiff’s motions filed on October 30, 2014 and February 12, 2015 are
- 18 WITHDRAWN from the court’s calendar.

19
20 IT IS SO ORDERED.

21 Dated: March 26, 2015

/s/ Gary S. Austin
22 UNITED STATES MAGISTRATE JUDGE