## 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 KEVIN DARNELL BRYANT Case No.: 1:11-cv-00446-LJO-BAM PC 12 ORDER GRANTING PLAINTIFF'S THIRD Plaintiff, MOTION FOR EXTENSION OF TIME TO FILE 13 v. HIS REPLY (ECF No. 135) 14 P. GALLAGHER, et al., ORDER VACATING APRIL 28, 2014 ORDER 15 Defendants. DENYING PLAINTIFF'S MOTION FOR ORDER 16 REOPENING DISCOVERY (ECF No. 134) 17 **Deadline: May 16, 2014** 18 19 20 Plaintiff Kevin Darnell Bryant ("Plaintiff") is a state prisoner proceeding pro se and in forma 21 pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This action proceeds against 22 Defendant Romero for deliberate indifference to serious medical needs in violation of the Eighth 23 24 the Eighth Amendment and failure to protect in violation of the Eighth Amendment.

On July 12, 2013, Plaintiff filed a motion for an order to reopen discovery. (ECF No. 113.) On January 27, 2014, the Court directed Defendants to file an opposition, or statement of nonopposition, to Plaintiff's motion. (ECF No. 122.) Following extensions of time, Defendants filed their

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opposition on March 3, 2014. Thereafter, the Court granted Plaintiff a ten-day extension of time to file his reply. (ECF No. 130.)

On March 21, 2014, Plaintiff filed a second motion to extend time to file his reply to Defendants' opposition. Plaintiff explained that he required additional time to access the law library, conduct research and prepare a reply. Plaintiff asserted that he was limited to two to three hours of law library access per week. (ECF No. 131.) The Court granted Plaintiff's motion for an extension of time, and Plaintiff's reply was due on or before April 22, 2014. (ECF No. 132.)

After receiving no reply, on April 28, 2014, the Court issued an order denying Plaintiff's motion to reopen discovery. (ECF No. 134.) On the same date, however, Plaintiff's third motion for extension of time to reply to Defendants' opposition was entered onto the Court's docket. The motion contained a proof of service dated April 22, 2014, which is timely under the mailbox rule. Douglas v. Noelle, 567 F.3d 1103, 1106-07 (9th Cir. 2009). The motion was received on April 25, 2014, but not entered onto the Court's docket until April 28, 2014, after issuance of the order denying Plaintiff's motion to reopen discovery. (ECF No. 135.) In other words, the Court issued its order denying the motion prior to receiving notification of Plaintiff's request for additional time to reply. The Court now considers Plaintiff's request.

In that request, Plaintiff contends that he has been unable to access the law library since March 2014 and he seeks an additional twenty-four (24) days to complete his research. Plaintiff believes that his request for law library access has been resolved and he will now be given access. (ECF No. 135.)

The Court has considered Plaintiff's moving papers and finds good cause for the brief extension of time. As a result, the Court will vacate its order denying Plaintiff's motion to reopen discovery and will grant Plaintiff's motion for a twenty-four day extension of time. However, Plaintiff is cautioned that no further extensions of time shall be granted absent a demonstrated showing of good cause.

For the reasons stated, IT IS HEREBY ORDERED as follows:

 The Court's order denying Plaintiff's motion for order reopening discovery, issued on April 28, 2014, is VACATED;

2. Plaintiff's third motion for an extension of time of 24-days to file his reply to Defendants' response, filed on April 25, 2014, is GRANTED; 3. Plaintiff shall serve and file his reply to Defendants' opposition to the motion to reopen discovery on or before May 16, 2014; 4. No further extensions of time shall be granted absent a demonstrated showing of good cause. IT IS SO ORDERED. /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE Dated: **April 29, 2014**