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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODNEY BROOKS,
Plaintiff,

v.

HAROLD TATE,
Defendant.

Case No. 1:11-cv-1503-AWI-DLB PC

**ORDER REGARDING AMENDED
COMPLAINT AND MOTION FOR
PRELIMINARY INJUNCTION**

ECF Nos. 15, 16

**PLAINTIFF’S RESPONSE DUE WITHIN
TWENTY-ONE DAYS**

Plaintiff Rodney Brooks (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s complaint, filed August 29, 2011, against Defendant Harold Tate for retaliation in violation of the First Amendment and deliberate indifference to a serious medical need in violation of the Eighth Amendment. On October 14, 2011, Plaintiff filed a motion for preliminary injunction.

Pending before the Court is: 1) Plaintiff’s amended complaint, filed August 9, 2012, and 2) Plaintiff’s second motion for preliminary injunction, filed August 9, 2012. ECF Nos. 15, 16. Plaintiff’s amended complaint includes additional allegations regarding conduct that occurred after the filing of the complaint. A party may supplement its pleadings. Fed. R. Civ. P. 15(d). The Court will screen Plaintiff’s first amended complaint pursuant to 28 U.S.C. § 1915A(a) and § 1915(e)(2)(B) prior to requiring Defendant to file a responsive pleading.

1 With regards to Plaintiff's second motion for preliminary injunction, the Court will require
2 Plaintiff to notify the Court whether he wishes to withdraw his October 14, 2011 motion and proceed
3 only with the August 9, 2012 motion. The Court does not generally permit parties to file motions in
4 piecemeal. Plaintiff will not be permitted to proceed with two motions concerning the same subject
5 matter for preliminary injunction.

6 Plaintiff's second motion appears to supersede the request for relief made by Plaintiff in his
7 first motion. In his first motion, Plaintiff requests that he be provided with a hinge knee brace,
8 physical therapy, and effective pain management. ECF No. 10. In his second motion, Plaintiff
9 requests that he be examined by a third-party neurologist and pain management specialist, receive
10 the treatment recommended by the specialist, and receive the pain medication tramadol or its
11 equivalent. ECF No. 15.

12 Once he notifies the Court of which motion he wishes to proceed, the Court will deny the
13 other motion, and direct Defendant Tate to file a response to Plaintiff's surviving motion pursuant to
14 Local Rule 230(l).

15 Accordingly, it is HEREBY ORDERED that:

- 16 1. Plaintiff's first amended complaint, filed August 9, 2012, will be screened pursuant to 28
17 U.S.C. § 1915A(a) and § 1915(e)(2)(B);
- 18 2. Defendants will be ordered to file a responsive pleading after the Court issues its
19 screening order; and
- 20 3. Plaintiff is granted **twenty-one (21) days** from the date of service of this order in which
21 to notify the Court whether he wishes to proceed with his October 14, 2011 motion for
22 preliminary injunction or his August 9, 2012 motion for preliminary injunction.

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25 IT IS SO ORDERED.

26 Dated: October 9, 2012

/s/ Dennis L. Beck
27 UNITED STATES MAGISTRATE JUDGE