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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EARL WARNER,
Plaintiff,
v.
MATTHEW CATE, et al.,
Defendants.

Case No. 1:12-cv-1146-LJO-MJS (PC)

**ORDER (1) DENYING PLAINTIFF'S
MOTION FOR AN ORDER
COMPELLING UNINHIBITED ACCESS
TO THE COURT, AND (2) GRANTING
PLAINTIFF'S MOTION FOR EXTENSION
OF TIME**

(ECF No. 44)

**CLERK OF COURT TO FAX COPY OF
THIS ORDER AND ECF DOC. No. 44 TO
LITIGATION COORDINATOR AT
CALIFORNIA HEALTH CARE FACILITY,
STOCKTON**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 28 U.S.C. § 1983. (ECF Nos. 7 & 10.) The action proceeds against Defendants Walker, McGaha, Prokop, Spalding, and Fellows on Plaintiff's Eighth Amendment failure to protect claim. (ECF No. 12.)

On August 18, 2014, Defendants filed a motion for summary judgment on the ground Plaintiff had failed to exhaust his administrative remedies. (ECF No. 41.) On September 8, 2014, Plaintiff filed a Motion for Order Compelling Uninhibited Access to

1 the Court and a motion for extension of time to oppose the summary judgment motion.
2 (ECF No. 44.) Defendants did not respond to Plaintiff's motion.

3 **I. MOTION FOR EXTENSION OF TIME**

4 Plaintiff has presented good cause for extending the time for filing his opposition
5 to the motion for summary judgment. His motion for extension of time will be granted.

6 **II. MOTION FOR ORDER COMPELLING UNINHIBITED ACCESS TO THE**
7 **COURT**

8 Plaintiff asks the Court to order Defendants to provide "all personal legal
9 documents, work product materials, [and] access to the law library" Plaintiff states
10 that he was transferred to a different institution on August 19, 2014, and was not
11 provided a pen until August 21, 2014. Beginning on August 21, 2014, Plaintiff asked his
12 institution for services to enable him to prepare to defend against Defendants' motion.
13 He is awaiting responses to his requests.

14 Defendants are employed at Pleasant Valley State Prison. Plaintiff currently is
15 incarcerated at California Health Care Facility, Stockton. There is nothing to indicate
16 Defendants have any ability to provide Plaintiff his legal materials or access to the law
17 library, and the Court does not have authority to order officials at Plaintiff's current
18 institution, who are not parties to this case and not before the Court, to take action.
19 Zepeda v. United States Immigration & Naturalization Serv., 753 F.2d 719, 727 (9th Cir.
20 1985) ("A federal court may issue an injunction if it has personal jurisdiction over the
21 parties and subject matter jurisdiction over the claim; it may not attempt to determine
22 the rights of persons not before the court.").

23 Additionally, Plaintiff acknowledges that his institution has a process for providing
24 the services he requested and he is still awaiting a response to his requests. Thus, even
25 if the Court could afford Plaintiff relief, he has not shown he is unable to obtain his legal
26 documents or access to the law library without court action. Accordingly, the Court will
27 deny Plaintiff's motion to compel.

28 The Court will, however, direct the Clerk of Court to fax a copy of this order and

1 Plaintiff's motion to the Litigation Coordinator at Plaintiff's institution. The Court requests
2 that the Litigation Coordinator look into the feasibility of accommodating Plaintiff's
3 concerns.

4 **III. ORDER**

5 Based on the foregoing, it is HEREBY ORDERED that:

- 6 1. Plaintiff's Motion for Order Compelling Uninhibited Access to the Court
7 (ECF No. 44) is DENIED,
- 8 2. Plaintiff's motion for extension of time (ECF No. 44) is GRANTED,
- 9 3. Plaintiff shall file an opposition to Defendants' motion for summary
10 judgment within sixty (60) days of the date of service of this order, and
- 11 4. The Clerk's Office is directed to fax a copy of this order and Plaintiff's
12 motion (ECF No. 44) to the Litigation Coordinator at California Health Care
13 Facility, Stockton.

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15 IT IS SO ORDERED.

16 Dated: December 5, 2014

17 */s/ Michael J. Seng*
18 UNITED STATES MAGISTRATE JUDGE
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