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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 DARRELL WAYNE KING,

12 Plaintiff,

13 vs.

14 JOHN D. CHOKATOS, et al.,

15 Defendants.  
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18

1:12-cv-01936-LJO-GSA-PC

ORDER IN RESPONSE TO  
PLAINTIFF'S NOTICE  
(Doc. 28.)

ORDER VACATING COURT'S  
ORDER ISSUED ON JUNE 10, 2014  
(Doc. 27.)

19 **I. BACKGROUND**

20 Darrell Wayne King ("Plaintiff") is a state prisoner proceeding pro se and in forma  
21 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint  
22 commencing this action on November 29, 2012. (Doc. 1.) This case now proceeds on  
23 Plaintiff's initial Complaint against defendants Dr. John Chokatos and LVN Michele Stringer  
24 for inadequate medical care in violation of the Eighth Amendment. (Id.)

25 On June 10, 2014, the court issued an order requiring Plaintiff to file a response to  
26 Defendants' motion for summary judgment of April 23, 2014, within thirty days. (Doc. 27.)  
27 On June 23, 2014, Plaintiff filed a notice to the court, arguing that he should not be required to  
28 comply with the court's order. (Doc. 28.)

1 **II. PLAINTIFF'S NOTICE**

2 Plaintiff notifies the court that he believes the court's order of June 23, 2014 was issued  
3 in error, because there is no motion for summary judgment pending. Plaintiff asserts that  
4 Defendants filed a request to convert part of their prior motion to dismiss into a motion for  
5 summary judgment, but the court denied this request and disregarded their notice of motion for  
6 summary judgment as moot. Plaintiff asserts that Defendants never renewed their motion for  
7 summary judgment, and he has not been served with any motion for summary judgment.

8 Plaintiff is correct. The court's order of June 10, 2014 should not have been issued,  
9 because there is no pending motion for summary judgment in this case. Plaintiff accurately  
10 explains the resolution of Defendants' notice of motion for summary judgment filed on April  
11 23, 2014, and Defendants have not renewed their motion. Therefore, the court shall vacate its  
12 order issued on June 10, 2014, and Plaintiff is not required to comply with the order.

13 **III. CONCLUSION**

14 Based on the foregoing, IT IS HEREBY ORDERED that:

- 15 1. The court's order issued on June 10, 2014, which required Plaintiff to file a  
16 response to Defendants' motion for summary judgment, is VACATED; and
- 17 2. Plaintiff is not required to comply with the court's order issued on June 10,  
18 2014.

19  
20 IT IS SO ORDERED.

21 Dated: June 26, 2014

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