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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

THOMAS GOOLSBY,

Plaintiff,

vs.

MATTHEW CATE, et al.,

Defendants.

1:13-cv-00119-AWI-GSA-PC

ORDER DENYING PLAINTIFF'S MOTION  
FOR STAY  
(ECF No. 50.)

ORDER GRANTING EXTENSION OF  
TIME TO FILE OPPOSITION TO  
DEFENDANTS' MOTION FOR COURT TO  
DECLARE PLAINTIFF VEXATIOUS  
LITIGANT

NINETY-DAY DEADLINE FOR PLAINTIFF  
TO FILE OPPOSITION

**I. BACKGROUND**

Thomas Goolsby ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. This action was filed on January 25, 2013. (Doc. 1.) The case now proceeds with the Second Amended Complaint filed on June 6, 2014, on Plaintiff's Eighth Amendment claims against defendants Warden Kimberly Holland, Warden Michael Stainer, and Captain J. Lundy, for denial of adequate outdoor exercise time; and defendants Captain J. Lundy, Sergeant S. Foster, Plumlee (Maintenance

1 Supervisor), Warden Kimberly Holland, Correctional Officer Jordon, and Correctional Officer  
2 Uribe, for deliberate indifference to unsanitary and unsafe conditions.<sup>1</sup> (ECF No. 34.)

3 This case is now in the discovery phase, pursuant to the court's scheduling order issued  
4 on July 24, 2015. (ECF No. 49.)

5 On July 23, 2015, Defendants filed a motion for the court to declare Plaintiff a  
6 vexatious litigant. (ECF No. 46.) On August 7, 2015, Plaintiff filed a motion to stay  
7 Defendants' motion. (ECF No. 50.) Defendants have not filed an opposition.

## 8 **II. MOTION FOR STAY**

9 Plaintiff requests the court to stay Defendants' motion to declare Plaintiff a vexatious  
10 litigant, to allow Plaintiff time to conduct discovery to oppose the motion. The court does not  
11 lightly stay litigation, due to the possibility of prejudice to defendants, and here, a stay of the  
12 proceedings is not Plaintiff's only remedy. In the alternative, good cause appearing, Plaintiff  
13 shall be granted a ninety-day extension of time to file his opposition to Defendants' motion. If  
14 Plaintiff requires additional time, he should file a motion for extension of time before the  
15 expiration of the ninety-day deadline.

## 16 **III. CONCLUSION**

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's motion for stay, filed on August 7, 2015, is DENIED; and
- 19 2. Good cause appearing, Plaintiff is GRANTED an extension of time until ninety  
20 days from the date of service of this order, in which to file his opposition to  
21 Defendants' motion for the court to declare Plaintiff a vexatious litigant.

22  
23 IT IS SO ORDERED.

24 Dated: September 10, 2015

25 /s/ Gary S. Austin  
26 UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> On March 24, 2015, the court issued an order dismissing all other claims and defendants from  
this action, for Plaintiff's failure to state a claim under § 1983. (ECF No. 36.)