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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MERRICK JOSE MOORE,
Plaintiff,
v.
GIPSON, et al,
Defendants.

Case No. 1:13-cv-01820-DAD-BAM (PC)
ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF’S REQUEST TO SUSPEND ALL MATTERS IN THIS CASE OR GRANT 90-DAY EXTENSION OF TIME
(ECF No. 76)
THIRTY (30) DAY DEADLINE

Plaintiff Merrick Jose Moore (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s Eighth Amendment claims for excessive force against Defendants Meier, Casas, Childress, and Adams, and for failure to intervene against Defendants Ford and Thornburg.

On February 7, 2018, the Court granted Defendants’ pending motion to compel responses to discovery and ordered Plaintiff to serve supplemental discovery responses within thirty (30) days. (ECF No. 64.) On April 3, 2018, with no opposition from Defendants, the Court granted Plaintiff’s motion for a thirty-day extension of time to serve such responses. (ECF Nos. 67, 72.)

On April 27, 2018, Plaintiff filed a request to suspend all matters in this case or an extension of ninety (90) days to serve his supplemental discovery responses. (ECF No. 76.) Defendants filed a status report in response on May 7, 2018, (ECF No. 78), and Plaintiff filed a

1 response on May 24, 2018, (ECF No. 79). The Court construes Plaintiff's request as a motion for
2 stay or, in the alternative, an extension of time. The motion is deemed submitted.

3 Plaintiff states that on March 28, 2018, he was transferred to Corcoran. Upon his arrival,
4 custody took control of Plaintiff's legal property, which was placed on the day-room table.
5 Plaintiff sought to secure his property from both second and third watch but was unsuccessful.
6 As a result, Plaintiff states that he suffered a mental break down and was sent to Corcoran's
7 Mental Health Crisis Bed, and later was sent to California Health Care Facility (CHCF) by a
8 psychologist. After receiving the Court's order granting his request for a thirty-day extension of
9 time, Plaintiff was informed by various staff members that no library, supplies of legal material,
10 or copies were available. (ECF No. 76.)

11 Based on these facts, Plaintiff requests a stay in this matter until Plaintiff has notified the
12 Court in writing that he has been discharged from the hospital and given his property and legal
13 property, or the Court has directed Corcoran State Prison to produce Plaintiff's property, or that
14 he be granted a ninety-day extension of time. (Id.)

15 In Defendants' May 7, 2018 status report, defense counsel states that he investigated
16 Plaintiff's claims. Defendants confirm that Plaintiff was transferred from Richard J. Donovan
17 Correctional Facility to California State Prison – Corcoran on March 29, 2018, and then to CHCF
18 on April 1, 2018 for mental health treatment. Defendants state that Plaintiff's property was not
19 transferred to CHCF because he may only remain in acute care for 7–10 days, unless he is
20 referred to a higher level of care. Based on the apparent temporary nature of Plaintiff's housing
21 situation, Defendants request that any extension of time be limited to thirty days, and Plaintiff's
22 request for a stay be denied. (ECF No. 78.)

23 In his reply, Plaintiff states that on May 10, 2018, he was transferred back to Richard J.
24 Donovan. Plaintiff states that he does not have access to his legal property, which remains at
25 Corcoran. (ECF No. 79.)

26 Having considered the request, and in light of Plaintiff's assertion that he remains without
27 access to his legal property, the Court finds good cause to partially grant the motion. Fed. R. Civ.
28 P. 6(b). However, given the lengthy history of this discovery dispute, the Court declines to grant

1 Plaintiff's request for a stay of this action. Further extensions of time will not be granted without
2 a showing of good cause, and Plaintiff should specifically identify the reasons for his failure to
3 timely provide discovery responses. Within seven (7) days of filing of any future request by
4 Plaintiff for an extension of time, Defendants shall file a statement of opposition or non-
5 opposition.

6 Accordingly, Plaintiff's motion for an extension of time to serve supplemental responses
7 to Defendants' discovery requests, (ECF No. 78), is HEREBY GRANTED IN PART. Plaintiff
8 shall serve supplemental responses to Defendant Ford's Interrogatories, Set One, Nos. 2-3; and
9 Defendants' Request for Production of Documents, Set One, No. 4, within **thirty (30) days** from
10 the date of service of this order. Plaintiff's request for a stay of this action is DENIED.

11 IT IS SO ORDERED.

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13 Dated: May 29, 2018

14 /s/ Barbara A. McAuliffe
15 UNITED STATES MAGISTRATE JUDGE
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