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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK S. SOKOLSKY,
Plaintiff,

vs.

STATE OF CALIFORNIA, et al.,
Defendants.

1:13-cv-02044-LJO-GSA-PC

**ORDER DENYING PLAINTIFF'S
REQUEST FOR SERVICE BY THE
COURT**

**ORDER DENYING PLAINTIFF'S
MOTION FOR STAY**

(ECF No. 71.)

I. BACKGROUND

Plaintiff is a civil detainee housed at Coalinga State Hospital (CSH), proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds on Plaintiff's Second Amended Complaint, filed on February 4, 2016, against defendants Domrese,¹ King, Meek, Porter, and Bonsu, for denial of free exercise of religion under the First Amendment and violation of RLUIPA; and defendants Domrese, King, Porter, and Bonsu for violation of due process relating to conditions of confinement. (ECF No. 30.)

On March 30, 2017, Defendants Meek, King, Porter, Coyne,² and Bonsu ("Defendants") filed a motion for summary judgment or partial summary judgment. (ECF No. 68.) On April 3, 2017, the court issued an order providing Plaintiff with a Rand Warning,

¹ To date, defendant Domrese has not been served with process.

² Defendant Christine Coyne was dismissed from this case on May 25, 2016. (ECF No. 39.)

1 notifying him of the requirements for opposing Defendants’ motion. (ECF No. 70.) On April
2 24, 2017, Plaintiff filed a document titled “Plaintiff’s Objection to Rand Warning (Objection),”
3 in which Plaintiff claims that he has not been served with the motion for summary judgment.
4 (ECF No. 71.) Plaintiff also requests a thirty-day stay of the proceedings in this action to allow
5 him time to obtain private counsel. (Id.) On May 26, 2017, Defendants filed a response to
6 Plaintiff’s Objections. (ECF No. 76.) Plaintiff did not file a reply.

7 **II. SERVICE OF DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

8 Plaintiff claims that he “has not been served with any motion for summary judgment.”
9 (ECF No. 71 at 1:26.) Plaintiff asserts that Defendants attempted to send him a box that
10 violated the Administrative Directives of CSH, which permit patients to “have a *total* of three
11 inches of paper when stacked.” (Id. at 2:2.) Plaintiff states that when such a box is delivered,
12 he is forced to stand in a long line for over three hours, only to be rejected because of the
13 quantity of documents. Plaintiff requests that the court serve him with the motion for summary
14 judgment by CD.

15 Defendants provide evidence that they served Plaintiff with the motion for summary
16 judgment by mail, but Plaintiff refused delivery of the package. (ECF No. 68 #6; Exh. A. to
17 ECF No. 76.) Defendants also provide evidence that the box they sent to Plaintiff did not
18 exceed the size limits allowed by CSH. (Exh. A to ECF No. 76.) Defendants submit the
19 declaration of Kenneth Bell, Hospital Police Lieutenant for CSH, who declares that CSH “has
20 no directive that limits patients to three inches of paper when stacked;” “[t]he amount of paper
21 documents which a patient may possess is based on the whole quantity of their personal
22 property;” and “patients are allowed one bin of personal property and one bin of legal material
23 to be stored in the Patient Property area of the hospital and patients may schedule appointments
24 Monday through Friday to go through their property stored in Patient Property.” (ECF No. 76-
25 1 ¶¶4-6.) Lieutenant Bell has provided copies of the applicable CSH Administrative Directives
26 and the Department of State Hospitals Statewide Property Contraband List. (ECF No. 76-1.)
27 Defendants state that they are working with officials at CSH to ensure that Plaintiff is given and
28 allowed to possess Defendants’ motion for summary judgment and the attendant documents

1 and will file a new proof of service when the motion has been served again. (ECF No. 76 at
2 5:1-4.)

3 Given that Defendants have stated their intention to re-serve the motion for summary
4 judgment on Plaintiff and file a new proof of service, Plaintiff's request for the court to serve
5 the motion for summary judgment on him by CD shall be denied.

6 Plaintiff is advised that his response to the motion for summary judgment is due no later
7 than 21 days after service of the motion. Local Rule 230(l).

8 **II. MOTION FOR STAY**

9 Plaintiff requests a stay of the proceedings in this case for thirty days, to allow him time
10 to seek private counsel to represent him in this matter. The court does not lightly stay
11 litigation, due to the possibility of prejudice to defendants, and here, more than thirty days have
12 passed since Plaintiff requested the thirty-day stay, causing his request to be moot. Therefore,
13 Plaintiff's motion for stay shall be denied as moot.

14 Plaintiff is advised that a stay of the proceedings is not his only remedy. In the future, if
15 Plaintiff requires additional time to meet a deadline or respond to a court order, he should file a
16 motion for extension of time before the expiration of the existing deadline.

17 **III. CONCLUSION**

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

19 1. Plaintiff's request for the court to serve him with Defendants' motion for
20 summary judgment by CD, filed on April 24, 2017, is DENIED; and

21 2. Plaintiff's motion for a thirty-day stay of the proceedings in this action is
22 DENIED as moot.

23
24 IT IS SO ORDERED.

25 Dated: August 6, 2017

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