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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RUBEN HERRERA,)	Case No.: 1:14-cv-00164-LJO-BAM (PC)
)	
Plaintiff,)	ORDER GRANTING DEFENDANT’S
)	REQUEST FOR LEAVE TO FILE LATE
v.)	RESPONSE TO PLAINTIFF’S THIRD
)	AMENDED COMPLAINT
JACOB REDDING,)	
)	(ECF No. 34)
Defendant.)	
)	
)	

Plaintiff Ruben Herrera is a civil detainee proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff’s Third Amended Complaint for excessive force against Defendant Officer Jacob Redding.

Currently before the Court is Defendant’s motion for leave to file a late responsive pleading in response to the Third Amended Complaint, filed on August 15, 2017. (ECF No. 34.) Plaintiff has not filed any response to the motion within the time permitted. Defendant’s motion is deemed submitted. Local Rule 230(1).

Defense counsel filed a declaration in support of Defendant’s request, explaining that the prior defense attorney left the office of the Attorney General on August 11, 2017. Afterwards, current defense counsel was assigned to the case, and shortly after reviewing the file, discovered that the waiver of service Defendant signed on June 28, 2017 was never returned to the United States Marshal for filing with the Clerk of the Court, and no responsive pleading had been filed.

1 A draft responsive pleading was promptly prepared and filed with this motion. (ECF No. 35.)
2 Counsel declares that Defendant was not responsible for the delays in this case, and immediate
3 attention was given to the case once the delay was discovered. Thus, Defendant requests leave to
4 file the late responsive pleading.

5 The Court finds good cause to grant Defendant's request for leave to file a late response.
6 Defendant has now appeared, and the failure to file an earlier response to the Third Amended
7 Complaint appears to have resulted from a personnel issue, and not from any attempt to
8 unreasonably delay these proceedings. Plaintiff is also not prejudiced by the very brief delay in
9 the response, as a discovery and scheduling order will issue concurrently with this order.

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. Defendant's motion for leave to file a late response (ECF No. 34) is GRANTED;
- 12 2. Defendants' answer to Plaintiff's Third Amended Complaint (ECF No. 35) shall
13 be docketed as filed on August 15, 2017; and
- 14 3. A discovery and scheduling order will issue concurrently with this order.

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16 IT IS SO ORDERED.

17 Dated: September 15, 2017

18 /s/ Barbara A. McAuliffe
19 UNITED STATES MAGISTRATE JUDGE
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