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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DIJON KINNEY,
Plaintiff,
v.
P.D. BRAZELTON, et al.,
Defendants.

CASE NO. 1:14-cv-00503-AWI-MJS (PC)
**ORDER REQUIRING DEFENDANT TO
FILE A RESPONSE TO PLAINTIFF'S
MOTION FOR EXTENSION OF TIME
WITHIN SEVEN DAYS**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The action proceeds against Defendant Flores on Plaintiff's Eighth Amendment claims for inadequate medical care and cruel and unusual punishment. The matter is set for trial before the Honorable Anthony W. Ishii on May 2, 2017. Before the Court is Plaintiff's motion for an extension of time to file a pretrial statement. (ECF No. 83.)

On October 3, 2016, the undersigned issued a scheduling order setting a January 6, 2017 deadline for Plaintiff to file a pretrial statement. (ECF No. 70.) A telephonic trial confirmation hearing was set for March 3, 2017.

Plaintiff, acting under the mistaken belief that his pretrial statement is due December 23, 2016, has requested an extension of time to March 20, 2017 in which to

1 file his pretrial statement. Plaintiff states that he was transported from the California City
2 Correctional Facility to the California Substance Abuse Treatment Center to attend what
3 turned out to be an unsuccessful settlement conference in this case. He was not
4 permitted to bring his legal materials. He believes it will take at least three months for the
5 California Department of Corrections and Rehabilitation to transfer him back to California
6 City¹ and to release his legal materials.

7 Plaintiff must file his pretrial statement well in advance of the trial confirmation
8 hearing so that Defendant may file a responsive statement and the District Judge may
9 issue a pretrial order prior to the hearing. Plaintiff's requested extension of time – to
10 March 20, 2017, more than two weeks after the scheduled hearing – would necessitate
11 the rescheduling of multiple pretrial deadlines and possibly trial. The Court will not grant
12 such a request based on mere speculation that Plaintiff may not receive his legal
13 materials for several months.

14 Accordingly, Defendant is HEREBY ORDERED to file a response to Plaintiff's
15 motion within seven days of the date of this order. Defendant should indicate therein
16 whether Plaintiff will be returned to California City prior to trial, whether Plaintiff's legal
17 materials have been released to him and, if not, when such release can be expected.

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19 IT IS SO ORDERED.

20 Dated: December 17, 2016

1st Michael J. Seng
21 UNITED STATES MAGISTRATE JUDGE

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27 ¹ The Court notes that Plaintiff's address of record remains at the California City Correctional Facility. If he
28 is not presently housed at that address, he must file a change of address form. Failure to do so may result
in dismissal of the action. Local Rule 183(b).