

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMAR HEARNS,
Plaintiff,
v.
R. GONZALES, et al.,
Defendants.

Case No. 1:14-cv-01177-DAD-MJS (PC)

**ORDER GRANTING DEFENDANTS'
MOTION TO MODIFY SCHEDULING
ORDER AS TO DISPOSITIVE MOTION
DEADLINE**

(ECF No. 63)

**DISPOSITIVE MOTION DEADLINE
STAYED UNTIL THIRTY (30) DAYS
AFTER THE DISTRICT JUDGE DECIDES
DEFENDANTS' EXHAUSTION MOTION**

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.

On November 16, 2016, this Court issued findings and recommendations to deny Defendants' motion for summary judgment on exhaustion grounds and set the case for an evidentiary hearing. (ECF No. 50.) On March 10, 2017, the District Judge assigned to the case adopted the findings and recommendations in full. (ECF No. 67.) Accordingly, the case was set for an evidentiary hearing on May 26, 2017 to resolve the issue of exhaustion. (ECF No. 68.)

Pursuant to the scheduling order filed on April 11, 2016, the dispositive motion deadline was February 21, 2017. (ECF No. 37.) Now before the Court is Defendants'

1 motion to modify the scheduling order as to the dispositive motion deadline. (ECF No.
2 63.) Defendants argue that since a substantive motion for summary judgment will only be
3 necessary if the Court rules in Plaintiff's favor at the evidentiary hearing, the Court should
4 vacate the current dispositive motion deadline and re-set the deadline to a date after it
5 rules on the exhaustion issue. Plaintiff has not opposed the motion and the time to do so
6 has passed.

7 A Court may modify its scheduling order upon a finding of good cause. Johnson v.
8 Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). The Court finds good
9 cause exists to stay the dispositive motion deadline pending resolution of Defendants'
10 exhaustion motion. Accordingly, Defendants' motion is HEREBY GRANTED. The
11 dispositive motion deadline, originally set for February 21, 2017, is stayed until thirty (30)
12 days after the District Judge decides Defendants' exhaustion motion.

13
14 IT IS SO ORDERED.

15 Dated: April 18, 2017

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

17
18
19
20
21
22
23
24
25
26
27
28