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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
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9 REAMEL CURTIS,

10 Plaintiff,

11 v.

12 J. GONZALES and J. BURGARIN,

13 Defendants.
14

Case No. 1:15-cv-00553-LJO-JDP

ORDER GRANTING IN PART
PLAINTIFF'S MOTION FOR EXTENSION
TO OPPOSE DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT

NEW DEADLINE: AUGUST 15, 2018

(Doc. No. 74.)

15 Plaintiff Reamel Curtis proceeds without counsel in this civil rights action brought under
16 42 U.S.C. § 1983. On April 26, 2018, defendants J. Gonzales and J. Burgarin moved for
17 summary judgment on the merits. (Doc. No. 66.) Plaintiff failed to oppose defendants' motion
18 by the applicable deadline, and the undersigned extended plaintiff's deadline to file his
19 opposition. (Doc. No. 72.) The undersigned explained that plaintiff's failure to oppose
20 defendants' motion by the new deadline might result in the grant of summary judgment for
21 defendants or dismissal for failure to prosecute. (*Id.*) Plaintiff again failed to file his opposition
22 by the new deadline, and the undersigned issued the findings and recommendations that the court
23 dismiss the case. (Doc. No. 73.)

24 Plaintiff now moves for a 45-day extension to oppose defendants' summary judgment
25 motion. (Doc. No. 74.) Plaintiff states that he has had no opportunity to oppose defendants'
26 motion because, for all but seven days, his prison was locked down from April 2018 to July
27 2018, preventing him from preparing an opposition. (*Id.* at 1.) Plaintiff's claim is suspect; the
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1 court has received numerous submissions from litigants confined at the same institution as
2 plaintiff during the period referenced by plaintiff, and at least one litigant from the same prison
3 finished summary-judgment briefing in July 2018. *See Lear v. Akanno*, No. 15-cv-1903,
4 Doc. Nos. 70, 71 (E.D. Cal. July 12, 2018). Nonetheless, the undersigned will allow plaintiff the
5 benefit of the doubt and give him a short extension to respond to defendants' summary judgment
6 motion.

7 Plaintiff must file his opposition to defendants' summary judgment motion by the
8 deadline set forth below. At a minimum, plaintiff's opposition should present evidence on these
9 two issues:

- 10 1. whether defendant Burgarin participated in the decision to transfer plaintiff to
11 Facility 3-A and whether Burgarin escorted him to Facility 3-A.
- 12 2. whether plaintiff informed defendant Gonzales that he faced safety risk for being
13 housed in Facility 3-A.

14 The undersigned will direct defendants' counsel to send a copy of this order to the
15 litigation coordinator at plaintiff's institution of confinement. The undersigned asks that the
16 litigation coordinator enable plaintiff to present his evidence on the two issues noted above and
17 ensure his access to courts. The two issues identified above require plaintiff to present evidence;
18 they do not require him to conduct legal research. After reviewing the parties' submissions, the
19 undersigned will consider vacating the findings and recommendations issued on July 19, 2018.
20 (Doc. No. 73.)

21 Defendants and their counsel may inform the court whether, in their view, plaintiff lacked
22 the opportunity to oppose defendants' motion for summary judgment. In particular, defendants
23 may wish to inform the court to what extent plaintiff's prison was locked down during the April
24 to July 2018 period, whether plaintiff lacked access to his evidence in his cell, and whether limits
25 were placed on his access to the law library.

1 **Order**

2 Accordingly,

- 3 1. By Monday, July 30, 2018, defendants' counsel must send, electronically or by other
4 means, a copy of this order to the litigation coordinator at plaintiff's institution of
5 confinement, so that the order may be forwarded to plaintiff as efficiently as possible.
- 6 2. By Wednesday, August 15, 2018:
- 7 a. Plaintiff Reamel Curtis must serve and file his opposition to defendants J.
8 Gonzales and J. Bugarin's motion for summary judgment.
- 9 b. Plaintiff's opposition to defendants' summary judgment motion must
10 present evidence on the two issues identified in this order.
- 11 c. Defendants may provide the court with the information identified in this
12 order.
- 13 3. After reviewing the parties' submissions, the court will assess whether to amend or
14 vacate the findings and recommendations issued on Thursday, July 19, 2018
15 (Doc. No. 74).
- 16 4. The deadline for filing objections to the findings and recommendations issued on
17 Thursday, July 19, 2018 (Doc. No. 74) is extended to Wednesday, August 29, 2018.

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19 IT IS SO ORDERED.

20 Dated: July 26, 2018

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22 UNITED STATES MAGISTRATE JUDGE