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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTT K. RICKS,
Plaintiff,
v.
C. KAMENA, et al.,
Defendants.

Case No. 1:15-cv-00715-BAM (PC)
ORDER DISCHARGING ORDER TO SHOW
CAUSE
(ECF No. 26)
ORDER DIRECTING DEFENDANT TO FILE
RESPONSE TO PLAINTIFF’S MOTION TO
CONTINUE PROCEEDINGS
TWENTY-ONE (21) DAY DEADLINE

Plaintiff Scott K. Ricks (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On August 5, 2016, the Court screened Plaintiff’s complaint and found that he had stated cognizable claims under the Eighth Amendment against Defendant Kamena for the failure to protect him from his cellmate’s attack on January 13, 2014, and for deliberate indifference to his serious medical need following the attack. (ECF No. 18.)

On February 24, 2017, Plaintiff filed a motion to amend the complaint solely with respect to damages. (ECF No. 24.) The Court granted the motion on April 19, 2017, and directed Plaintiff to file an amended complaint limited to the revision of his damages claim. (ECF No. 25). Plaintiff failed to timely file an amended complaint. On June 6, 2017, the Court issued an order to show cause why this action should not be dismissed for failure to obey a court order and

1 failure to prosecute. (ECF No. 26.)

2 On June 20, 2017, Plaintiff filed the instant motion to continue proceedings. (ECF No.
3 27.) Plaintiff states that on April 27, 2017, during his deposition in this case, Defendant’s counsel
4 acknowledged that Plaintiff had filed a timely motion to amend with respect to the amount of
5 damages. Plaintiff believed that because Defendant’s counsel had acknowledged his motion on
6 the record, he did not need to file an amended complaint. (Id.)

7 Plaintiff further states that he was transferred to Salinas Valley State Prison (“SVSP”) on
8 February 1, 2016. Plaintiff alleges that SVSP has no print law library, no law books or legal
9 reference books, and refuses to supply any type of legal materials, including 28 lined paper and
10 pens. Plaintiff has filed multiple appeals regarding SVSP’s refusal to supply legal materials, and
11 every single one of the appeals was denied. Plaintiff states that he was only able to obtain fifty
12 pages of 28 lined paper by trading with another inmate, and thus has demonstrated that he has no
13 means to file a first amended complaint. Plaintiff requests that the Court proceed on the
14 cognizable claims of the complaint filed on April 26, 2015,¹ and his motion to amend with respect
15 to damages, or to proceed solely on the original complaint. (Id.)

16 The Court finds it appropriate for Defendant Kamena to file a response to Plaintiff’s
17 motion to continue proceedings. Local Rule 230(l). Accordingly, Defendant Kamena is
18 HEREBY ORDERED to file a response to Plaintiff’s motion to continue proceedings, (ECF No.
19 27), within **twenty-one (21) days** of the date of service of this order. Plaintiff’s reply, if any,
20 shall be filed within **seven (7) days** following the date of service of Defendant’s response.

21 IT IS SO ORDERED.

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23 Dated: June 21, 2017

/s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The Court notes that Plaintiff’s original complaint was signed and dated April 26, 2015, and docketed on May 8, 2015. (ECF No. 1.)