

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KENNETH ALLEN SHARONOFF,
Plaintiff,
vs.
MONTOYA, et al.,
Defendants.

1:15-cv-00799-GSA-PC

**ORDER DENYING PLAINTIFF'S MOTION
FOR MORE DEFINITE STATEMENT
(ECF No. 25, 29.)**

**ORDER EXTENDING TIME FOR PLAINTIFF
TO RENEW RULE 56 MOTION**

DEADLINE: January 31, 2017

I. BACKGROUND

Kenneth Allen Sharonoff (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On May 27, 2015, Plaintiff filed the Complaint commencing this action. (ECF No. 1.) This case now proceeds with the Third Amended Complaint filed on January 20, 2016, against defendants M. Montoya and J. Torres-Azarte, for failure to protect Plaintiff in violation of the Eighth Amendment. (ECF No. 14.) Defendants’ motion for summary judgment is pending. (ECF No. 23.)

On August 8, 2016, Plaintiff filed a “Motion for Discovery Under Rule 56 and Request for Time Extension [to respond to Defendants’ motion for summary judgment].” (ECF No. 25.) On October 18, 2016, the Court denied the motion, without prejudice to renewal of the motion within thirty days. (ECF No. 32.)

1 On November 8, 2016, Plaintiff filed a motion for more definite statement, which is
2 now before the Court. (ECF No. 34.)

3 **II. PLAINTIFF'S MOTION FOR MORE DEFINITE STATEMENT**

4 Plaintiff requests the Court to amend the order issued on October 18, 2016, to
5 “[i]dentify Statute or Court Rule that compels the deadline.” (ECF No. 34 at 1:12-13.)
6 Plaintiff argues that without this amendment, he will not be permitted to use the prison law
7 library to renew his Rule 56 motion pursuant to the order. Plaintiff attaches a copy of a request
8 he made for access to the law library on October 25, 2016, which was denied by prison staff
9 because of “no evidence of court established deadline.” (Exhibit to ECF No. 34.)

10 **Discussion**

11 The Court’s October 18, 2016 order itself establishes a “thirty-day deadline” for
12 Plaintiff to renew his Rule 56 motion. (ECF No. 34.) No other authority is needed. Plaintiff
13 should show the order to prison staff as evidence of a court-established deadline. There is no
14 need to amend the order to identify a statute or court rule. Therefore, Plaintiff’s motion for
15 more definite statement shall be denied.

16 Moreover, Plaintiff does not need to conduct research at the law library to renew his
17 Rule 56 motion. As instructed in the October 18, 2016 order, Plaintiff must “submit a
18 declaration establishing the following: facts indicating a likelihood that controverting evidence
19 exists as to a material fact; specific reasons why he did not obtain such evidence earlier in the
20 proceedings (i.e. ‘good cause’); the steps or procedures by which he proposes to obtain such
21 evidence within a reasonable time; and an explanation of how those facts will suffice to defeat
22 the pending motion for summary judgment (i.e., to rebut the movant’s allegations of no genuine
23 issue of material fact).” (ECF no. 32 at 3:1-6.) Plaintiff’s declaration must be in his own
24 words, attesting to facts known by Plaintiff.¹ No research in the law library is needed to
25 prepare the declaration.

26

27 ¹ The declaration must be dated and signed by Plaintiff, attesting under penalty of perjury to
28 facts known by the declarant, in substantially the following form: “I declare under penalty of perjury that the
foregoing is true and correct. Executed on (date). (Signature).” Such a declaration, if properly prepared, is
admissible in federal court with the same effect as an affidavit. 28 U.S.C. § 1746.

1 Plaintiff shall be granted an extension of time in which to renew the Rule 56 motion.

2 **III. CONCLUSION**

3 Based on the foregoing, IT IS HEREBY ORDERED that:

4 1. Plaintiff's motion for more definite statement, filed on November 8, 2016, is
5 DENIED;

6 2. Plaintiff is GRANTED an extension of time until January 31, 2017 in which to
7 renew his Rule 56 motion, pursuant to the Court's order issued on October 18, 2016.

8 IT IS SO ORDERED.

9
10 Dated: January 4, 2017

/s/ Gary S. Austin
11 UNITED STATES MAGISTRATE JUDGE