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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JARED M. VILLERY,

Plaintiff,

v.

JEFFREY BEARD, et al.,

Defendants.

Case No. 1:15-cv-00987-DAD-BAM (PC)

ORDER REGARDING PARTIES’
STIPULATED REQUEST TO ALLOW
DEFENDANTS TO FILE AN AMENDED
ANSWER UNDER FEDERAL RULE OF
CIVIL PROCEDURE 15(a)(2)

[ECF No. 54]

Plaintiff Jared M. Villery is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds against Defendants Kendall, Acosta, Naficy, Jones, Guerrero, Aithal, Seymour, Carrizales, Woodard, Pallares, Hernandez, Fisher, Grimmig, and Miranda for deliberate indifference in violation of the Eighth Amendment, and against Defendants Beard and Kernan for promulgation of a policy to deny single cell housing for inmates with serious mental disorders, in violation of the Eighth Amendment.

Currently before the Court is the parties stipulated request to allow Defendants to file an amended answer pursuant to Federal rule of Civil Procedure 15(a)(2), filed on January 19, 2018. (ECF No. 54.) The parties stipulate that they have met and conferred, and that Defendants have agreed with withdraw or modify certain affirmative defenses asserted in their answer to the first amended complaint. As a result, Plaintiff has agreed not to file a motion to strike affirmative defenses. Defendants have attached a proposed amended answer to the motion. (*Id.* at 4-13.)

1 Generally, a motion for leave to amend is governed by Federal Rule of Civil Procedure Rule
2 15(a), which establishes a policy favoring amendments to pleadings with “extreme liberality.” *Price*
3 *v. Kramer*, 200 F.3d 1237, 1250 (9th Cir. 2000). Indeed “a court must be guided by the underlying
4 purpose of . . . Rule 15 to facilitate decision on the merits.” *Id.* Against this backdrop, a district
5 court determines the propriety of a motion to amend by ascertaining the presence of any of four
6 factors: bad faith, undue delay, prejudice to the opposing party, and/or futility. *Griggs v. Pace Am.*
7 *Group, Inc.*, 170 F.3d 877, 880 (9th Cir. 1999).

8 In this case, reviewing the proposed amended answer, the record, and considering the factors
9 here, the Court finds leave to amend the answer is appropriate to grant. There is no evidence of bad
10 faith; rather, the parties have engaged in good faith negotiations and the purpose of the amended
11 answer is for Defendants to withdraw or modify certain affirmative defenses that they have
12 reconsidered in light of their meet and confer. The request is timely made, as the current deadline
13 for motions or stipulations to amend the pleadings under the discovery and scheduling order (ECF
14 No. 33) is April 3, 2018. There is also no prejudice to Plaintiff here, who has stipulated to the
15 request to amend, nor any futility in the amendment.

16 For these reasons, Defendants request to amend their answer (ECF No. 54) is HEREBY
17 GRANTED. Defendants shall file their amended answer on or before ten (10) days from the date of
18 service of this order.

19
20 IT IS SO ORDERED.

21 Dated: January 22, 2018

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