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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JARED M. VILLERY,  
Plaintiff,  
v.  
JAY JONES, ET. AL.,  
Defendants.

Case No. 1:15-cv-1360-DAD-HBK  
ORDER DENYING PLAINTIFF'S SIXTH  
MOTION FOR AN ENLARGEMENT OF  
TIME  
(Doc. No. 161)

Pending before the Court is Plaintiff's sixth motion for an enlargement of time, filed as an emergency seeking relief under the All Writs Act, signed on November 22, 2021 and docketed on November 29, 2021. (Doc. No. 161). Plaintiff incorporates with his motion his own declaration. (*Id.*).

**I. BACKGROUND AND FACTS**

For the last six years, Plaintiff has been proceeding on his *pro se* prisoner civil rights complaint filed under 42 U.S.C. § 1983. On November 16, 2021, the Court granted Plaintiff's approximate fifth motion for an enlargement of time allowing Plaintiff, no later than November 29, 2021, to provide to correctional officials for mailing his response(s) opposing Defendants' respective motions for summary judgment. (Doc. No. 160). Reviewing the history in the action, the Court noted the length of time the defendants' respective motions for summary judgment have been pending and awaiting response(s) from Plaintiff. (*Id.* at 3). The Court further warned

1 Plaintiff that “NO FURTHER EXTENSIONS WILL BE GRANTED.” (*Id.* at 4) (emphasis in  
2 original).

3 Now, Plaintiff moves for his approximate sixth enlargement of time. (*See* Doc. No. 161).  
4 Plaintiff states “[u]pon information and belief, [he] has a current deadline of November 28, 2021,  
5 within which to file his Opposition to Defendants’ motion[s].” (*Id.* at 1). Plaintiff states his  
6 “opposition pleadings have been completed for two months,” but claims prison officials have  
7 “obstruct[ed] Plaintiff’s ability to obtain photocopies of his pleadings, making it impossible for  
8 him to file these documents with the Court.” (*Id.* at 2). Plaintiff believes it will take “several  
9 more months” before he is able to obtain copies that would allow him to file his opposition  
10 pleadings unless the Court takes action under the All Writs Act. (*Id.*). Plaintiff requests that the  
11 Court direct the Secretary of the California Department of Corrections and her subordinates to  
12 permit Plaintiff access to the law library to “photocopy, bind, and then file” his opposition. (*Id.*).

13 In short, Plaintiff seeks an unspecific enlargement of time, but up to “several months,” to  
14 file oppositions to summary judgment motions he claims he completed two months ago, solely  
15 for purposes of obtaining bound copies of the documents before filing them in Court. (*See*  
16 *generally Id.*). Plaintiff’s declaration incorporated within his motion further alleges he needs  
17 more time because he was “put up for transfer” on November 18, 2021, from California  
18 Institution for Men to a California Healthcare Facility at Stockton. (*Id.* at 8). With his  
19 speculative, impending transfer, Plaintiff anticipates he will be quarantined again, and not able to  
20 access the law library to make copies. (*Id.* at 8-9). Notably, Plaintiff’s declaration details his  
21 prior transfer and repeats allegations that he did not receive his legal documents following his last  
22 transfer, despite Defendants previously providing evidence to refute Plaintiff’s prior allegations.  
23 Specifically, Defendants’ evidence submitted previously showed that following Plaintiff’s  
24 transfer, he received his property boxes containing all legal materials on September 29, 2021, or  
25 no later than October 13, 2021. (*See Id.* at 8; *see also* Doc. No. 160 at 2) (citing Decl. at 3)).

## 26 II. DISCUSSION

27 The All Writs Act permits federal courts to “issue all writs necessary or appropriate in aid  
28 of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. §

1 1651(a). “The power conferred by the Act extends, under appropriate circumstances, to persons  
2 who, though not parties to the original action or engaged in wrongdoing, are in a position to  
3 frustrate the implementation of a court order or the proper administration of justice and  
4 encompasses even those who have not taken any affirmative action to hinder justice.”  
5 *Cunningham v. Martinez*, 2021 WL 2549454 \*1 (E.D. Cal. June 22, 2021) (citing *United States v.*  
6 *New York Tel. Co.*, 434 U.S. 159, 174 (1977) (other citations omitted)). For example, the Act is  
7 appropriate in prisoner civil rights cases where non-party correctional officials are impeding the  
8 prisoner-plaintiff's ability to litigate his pending action. *Id.* (citations omitted). Significantly,  
9 “injunctive relief under the All Writs Act is to be used sparingly and only in the most critical and  
10 exigent circumstances,” and only “if the legal rights at issue are indisputably clear.” *Id.* (citing  
11 *Brown v. Gilmore*, 533 U.S. 1301, 1303 (2001)) (other citations omitted).

12 As set forth most recently in the Court's November 16, 2021 order, this case cannot be  
13 permitted to languish indefinitely while Plaintiff seeks numerous extensions of time. Plaintiff has  
14 had his legal materials since September 29, 2021, and October 13, 2021, respectively. (*See* Doc.  
15 No. 160 at 2-3). Plaintiff acknowledges that his oppositions have been done for months. (Doc.  
16 No. 161 at 2). Plaintiff now alleges he cannot obtain copies, or bound copies, and does not have  
17 access to law library to make such copies, but Plaintiff does not provide a single inmate grievance  
18 or inmate form submitted to prison officials requesting copies be made of his responses in  
19 opposition or requesting access to the law library to make such copies. (*See Id.*). Nor does  
20 Plaintiff provide written forms from correctional officials denying his requests for copies or  
21 library access. (*Id.*). Bound copies are not required for filing in federal court. Further, the Court  
22 will deem the Clerk's docketing of Plaintiff's oppositions on CMECF as sufficient service of  
23 process on Defendants so Plaintiff need not make copies of the oppositions to mail to Defendants.

24 The Court does not deem use of the All Writs Act appropriate based on the facts presented  
25 here. Plaintiff's unsubstantiated allegations regarding correctional officials' alleged refusal to  
26 permit him to make copies, or bound copies, does not warrant use of injunctive relief under the  
27 All Writs Act. Nor do the allegations justify granting a several-month enlargement of time,  
28 particularly considering the time already elapsed in this case. Nor does a speculative threat of

1 future transfer to a different correctional institution justify more delay in this matter. Finally,  
2 Plaintiff's insinuations in the instant motion that he has not received copies of the Court's prior  
3 orders are not well taken considering no mail has been returned to Court marked as  
4 "undeliverable." (See docket). Plaintiff is fully aware of the deadlines in this case.

5 As the November 16 Order warned, no further enlargements of time will be permitted.  
6 (Supra at 1). Thus, Plaintiff's approximate sixth motion for enlargement of time is denied. **The**  
7 **Court will deem Defendants' respective June 22, 2020 and May 26, 2021 motions for**  
8 **summary judgment (Doc. Nos. 85, 129) submitted on December 21, 2021 based upon the**  
9 **record then before the Court. To the extent Plaintiff wishes the Court to consider his**  
10 **oppositions "that have been completed for two months" in its ruling on Defendants'**  
11 **respective motions for summary judgment he is urged to expeditiously mail them to the**  
12 **Clerk for docketing.**

13 Accordingly, it is **ORDERED**:

14 1. Plaintiff's sixth motion for an enlargement of time and request for the Court to order  
15 copying and binding of his oppositions under the All Writs Act (Doc. No. 161) is **denied**.

16 2. The Court will deem Defendants' respective June 22, 2020 and May 26, 2021 motions  
17 for summary judgment (Doc. Nos. 85, 129) submitted on December 21, 2021 based upon the then  
18 record before the Court.

19 3. The Clerk shall provide a copy of Plaintiff's motion (Doc. No. 161) and the instant  
20 Order to the Litigation Coordinator at California Institution for Men for informational purposes  
21 only.

22  
23 Dated: November 30, 2021

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25 HELENA M. BARCH-KUCHTA  
26 UNITED STATES MAGISTRATE JUDGE  
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