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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELAINE K. VILLAREAL,
Plaintiff,
v.
COUNTY OF FRESNO,
Defendant.

Case No. 1:15-cv-01410-EPG (PC)
ORDER REQUESTING THAT THE
COUNTY OF FRESNO FILE THE
ORIGINAL ADDITIONAL EVIDENCE
THAT PLAINTIFF SERVED ON IT
14-DAY DEADLINE

Elaine K. Villareal (“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 September 17, 2015, Plaintiff filed the complaint commencing this action. (ECF No. 1). In an order entered November 8, 2016, this Court allowed Plaintiff’s action to proceed against defendant County of Fresno on a claim for violation of the Eighth Amendment based on unconstitutional conditions of confinement. (ECF No. 7).

On January 31, 2017, defendant County of Fresno filed a motion to dismiss on the ground that Plaintiff failed to properly exhaust her administrative remedies. (ECF No. 12). Plaintiff filed an opposition, (ECF No. 19), and defendant County of Fresno filed a reply (ECF No. 20). The Court heard oral arguments on April 7, 2017, and took the matter under submission. (ECF No. 25). On April 11, 2017, the Court converted the motion to dismiss into a motion for summary judgment and gave both parties the opportunity to file additional evidence, as well as a reply and objections to the opposing parties’ evidence. (ECF No. 26).

1 On May 16, 2017, defendant County of Fresno filed a reply and objections to Plaintiff's
2 additional evidence. (ECF No. 28). Based on this, it appeared that Plaintiff served her additional
3 evidence ("Original Additional Evidence") on defendant County of Fresno. However, Plaintiff's
4 Original Additional Evidence was not filed with the Court. Accordingly, the Court ordered
5 Plaintiff to file her Original Additional Evidence with the Court. (ECF No. 29).

6 On June 7, 2017, Plaintiff filed additional evidence ("New Additional Evidence"). (ECF
7 No. 30). However, the New Additional Evidence is not the evidence that Plaintiff previously
8 served on defendant County of Fresno. (Id. at p. 4). In the New Additional Evidence Plaintiff
9 stated that she forgot to make copies of the Original Additional Evidence to file with the Court.
10 (Id.).

11 The Court notes that it is Plaintiff's responsibility to file her documents with the Court.
12 The Court is not required to consider documents that Plaintiff does not file.

13 However, in light of the importance of the pending motion, and as Plaintiff did send a
14 copy of the Original Additional Evidence to defendant County of Fresno, and as defendant
15 County of Fresno has already filed a reply and objections to that evidence, the Court will order
16 that defendant County of Fresno file a copy of the Original Additional Evidence.

17 Accordingly, based on the foregoing, the Court orders that, within fourteen (14) days from
18 the date of service of this order, defendant County of Fresno file a copy of the Original Additional
19 Evidence.¹

20 IT IS SO ORDERED.

21
22 Dated: June 12, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

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26 _____
27 ¹ The Court will not make a similar accommodation in the future for Plaintiff. In the future, Plaintiff is
28 responsible for filing the necessary papers with the Court.

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