UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

ARCHIE CRANFORD.

v.

TINA M. ADAMS, et al.,

Plaintiff,

Defendants.

1:16-cv-00783-GSA-PC

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ORDER REQUIRING PLAINTIFF TO EITHER:

- (1) FILE OPPOSITION TO DEFENDANT'S AMENDED MOTION FOR SUMMARY JUDGMENT, OR
- (2) NOTIFY COURT THAT HE WISHES TO PROCEED WITH OPPOSITION FILED ON **NOVEMBER 2, 2017**

THIRTY DAY DEADLINE

Archie Cranford ("Plaintiff") is a civil detainee proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds with Plaintiff's initial Complaint, filed on June 6, 2016, against defendant Dunu Eyiuche (RN) on Plaintiff's equal protection claim. (ECF No. 1.)

It appearing that all parties to this action have consented to magistrate judge jurisdiction (ECF Nos. 5, 28), this case was assigned to the undersigned, Magistrate Judge Gary S. Austin, on January 11, 2018, for all purposes within the meaning of 28 U.S.C. § 636(c), to conduct any and all further proceedings in this case, including trial and entry of final judgment. (ECF No. 35.)

On October 18, 2017, Defendant Eyiuche filed a motion for summary judgment. (ECF No. 19.) On October 25, 2017, Defendant Eyiuche filed an amended motion for summary judgment. (ECF No. 22.) On November 2, 2017, Plaintiff filed an opposition titled "Plaintiff's Opposition to Defendant's Motion for Summary Judgment." (ECF No. 26.) On November 22, 2017, Defendant filed a reply to the opposition. (ECF No. 31.)

Plaintiff's opposition, provides as follows, in its entirety:

Plaintiff Archie Cranford opposes defendant's motion for summary judgment and requests that the motion be denied on the following ground. 1. The motion was not filed according to the time schedule provided by code of civil procedure section 437c, the moving party's motion is not supported by a separate statement of undisputed facts which set forth the basis for such motion. Plainly and concisely the motion is based upon the declaration of [a] witness who was the sole witness to a material fact relied upon by the moving party. The court is not bound to deny the motion on this ground but can in its discretion. Plaintiff requests sanctions be imposed upon defendant for filing this motion in bad faith and for purpose of delay. In support of the request, plaintiff points out that defendant must have realized that in her inability to successfully oppose such a motion.

(ECF No. 26.)

In her reply to the opposition, Defendant argues that Plaintiff's opposition is an opposition to Defendant's *initial* motion for summary judgment filed on October 18, 2017, and not to her *amended* motion for summary judgment filed on October 25, 2017. Defendant asserts that Plaintiff has not filed any opposition to the *amended* motion for summary judgment.

In light of Defendant's assertion, Plaintiff shall be granted thirty days in which to file an opposition to Defendant's amended motion for summary judgment filed on October 25, 2017. In the alternative, Plaintiff may file written notice to the court that he does not wish to file a new opposition, and he wishes the court to proceed with his opposition filed on November 2, 2017, as his opposition to the *amended* motion for summary judgment.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Within thirty days of the date of service of this order, Plaintiff shall **either**:
 - a. File an opposition to Defendant's *amended* motion for summary judgment of October 25, 2017, <u>or</u>

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- b. Notify the court in writing that he does not wish to file a new opposition, and instead wishes the court to proceed with the opposition he filed on November 2, 2017, as his opposition to the *amended* motion for summary judgment; and
- 2. Plaintiff's failure to comply with this order may result in the dismissal of this case without further notice.

IT IS SO ORDERED.

Dated: June 12, 2018 /s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE