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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHARLES WINDHAM,)	Case No.: 1:16-cv-00979-AWI-SAB (PC)
)	
Plaintiff,)	ORDER DIRECTING DEFENDANT TO RE-
)	SERVE MOTION FOR SUMMARY JUDGMENT
v.)	
)	(ECF No. 44)
C. RODRIGUEZ,)	
)	
Defendant.)	
)	
)	

Plaintiff Charles Windham is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 23, 2017, the Court ordered Plaintiff to file a response to Defendant C. Rodriguez’s motion for summary judgment for the failure to exhaust administrative remedies, as his response was overdue. (ECF No. 40.) Defendant’s motion was filed with a proof of service stating that it was mailed to Plaintiff at Mule Creek State Prison on July 20, 2017. (ECF No. 33, at p. 11).

On October 16, 2017, Plaintiff filed an opposition statement, stating that he received the Court’s order, but never received the motion for summary judgment, and intends to oppose it. Plaintiff requests that he be provided with Defendant’s motion.

Although Defendant provided proof that Plaintiff was served with the motion for summary judgment at his address of record, it appears Plaintiff has not received it. In the interests of justice and to keep this matter moving towards resolution, the Court will direct Defendant to re-serve the motion.

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Accordingly, the Court HEREBY ORDERS that:

1. Within seven (7) days of the date of this order, Defendant shall re-serve the motion for summary judgment on Plaintiff, and file a certificate of service with the Court;
2. Plaintiff shall file an opposition to Defendant's motion for summary judgment within twenty-one (21) days of the date of service of Defendant's motion. Local Rule 230(l); and
3. **The parties are warned that extensions of time will not be granted absent a showing of good cause. The failure to comply with this order may result in the imposition of sanctions.**

IT IS SO ORDERED.

Dated: October 18, 2017



UNITED STATES MAGISTRATE JUDGE