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6	UNITED STATES DISTRICT COURT	
7	EASTERN DISTRICT OF CALIFORNIA	
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9	JERRY DILLINGHAM,	Case No. 1:18-cv-00507-AWI-SAB (PC)
10	Plaintiff,	ORDER DENYING PLAINTIFF'S MOTION FOR A COURT ORDER DIRECTING DEFENDANTS TO FILE AN ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT
11	v.	
12	N. EMERSON, et al.,	
13	Defendants.	(ECF No. 64)
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15	Plaintiff Jerry Dillingham is a state prisoner proceeding pro se and in forma pauperis in	
16	this civil rights action pursuant to 42 U.S.C. § 1983.	
17	On August 19, 2019, Defendants Velasco, Martinez, Loftin, Emerson, Marsh, Wescoat,	
18	and Wilson filed a motion to dismiss Plaintiff's Eighth Amendment claim on the ground that they	
19	are entitled to qualified immunity. (ECF No. 54.)	
20	On December 18, 2019, the undersigned issued findings and recommendations	
21	recommending that Defendants' motion to dismiss Plaintiff's Eighth Amendment claim be	
22	denied. (ECF No. 61.)	
23	Currently before the Court is Plaintiff's motion for a court order directing Defendants to	
24	file an answer to Plaintiff's second amended complaint, filed on January 6, 2020. (ECF No. 64.)	
25	Plaintiff contends that, since the undersigned issued findings and recommendations denying	
26	Defendants' motion to dismiss, the Court should order Defendants to file an answer to Plaintiff's	
27	second amended complaint within fourteen days. (Id.)	
28	However, initially, Plaintiff's motion is premature. While the undersigned has issued	
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1	findings and recommendations recommending that Defendants' motion to dismiss be denied, the	
2	thirty (30) day period in which the parties can file objections to the findings and	
3	recommendations has not yet lapsed and the District Judge assigned to this case has not yet issued	
4	his ruling on Defendants' motion to dismiss. Further, if the District Judge adopts the findings and	
5	recommendations and denies Defendants' motion to dismiss brought pursuant to Rule 12(b)(6),	
6	Federal Rule of Civil Procedure 12(a)(4)(A) already provides that Defendants will have to serve	
7	their responsive pleading "within 14 days after notice of the court's action[.]" Fed. R. Civ. P.	
8	12(a)(4). No motion asking the Court to require Defendants to file an answer is now, or will be,	
9	necessary.	
10	Accordingly, Plaintiff's motion for a court order directing Defendants to file an answer to	
11	Plaintiff's second amended complaint, (ECF No. 64), is HEREBY DENIED.	
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14	IT IS SO ORDERED.	
15	Dated: January 7, 2020 UNITED STATES MAGISTRATE JUDGE	
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