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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

<p>RUBEN FIGUEROA,</p> <p style="padding-left: 100px;">Plaintiff,</p> <p style="padding-left: 100px;">v.</p> <p>CLARK, <i>et al.</i>,</p> <p style="padding-left: 100px;">Defendants.</p>	<p>Case No. 1:19-cv-00968-ADA-BAM (PC)</p> <p>ORDER DISCHARGING ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE (ECF No. 82)</p> <p>ORDER GRANTING PLAINTIFF’S MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT (ECF No. 83)</p> <p>THIRTY (30) DAY DEADLINE</p>
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Plaintiff Ruben Figueroa (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against Defendants Baughman, Clark, Gallagher, Alfaro, Goss, Juarez, Hence, and Llamas for failure to provide outside exercise in violation of the Eighth Amendment and against Defendants Baughman, Clark, Goss, Hence, Gallagher, Llamas, and Gamboa for violations of the Equal Protection Clause of the Fourteenth Amendment.

On December 2, 2022, Defendants filed a motion for summary judgment on the grounds that there is no genuine dispute of material fact and Defendants are entitled to qualified immunity. (ECF No. 80.) Plaintiff’s opposition was due on or before December 27, 2022.

After Plaintiff failed to file an opposition to the motion for summary judgment, on January 11, 2023, the Court issued an order for Plaintiff to show cause within twenty-one days why this

1 action should not be dismissed for failure to prosecute. (ECF No. 82.)

2 Currently before the Court is Plaintiff's Notice of Change of Address and Motion for
3 Enlargement of Time, 30 Days, filed January 13, 2023. (ECF No. 83.) Plaintiff states that he
4 moved from his transition home to his new home and has not received any mail since the first
5 week of December 2022, and has only just received Defendants' motion for summary judgment
6 from December 2, 2022. Plaintiff contends that there are genuine issues of material fact within
7 his claims, and due to his move he requires an extension of time to oppose Defendants' motion
8 for summary judgment. (*Id.*)

9 Defendants have not yet had an opportunity to file a response, but the Court finds a
10 response is unnecessary. The motion is deemed submitted. Local Rule 230(l).

11 Having considered the moving papers, the Court finds that Plaintiff's recent move and
12 new mailing address present good cause to grant the requested extension. Fed. R. Civ. P. 6(b).
13 The order to show cause will be discharged. The Court finds that an extension of thirty days is
14 appropriate under the circumstances, and further finds that Defendants will not be prejudiced by
15 the brief extension granted here.

16 Accordingly, IT IS HEREBY ORDERED as follows:

- 17 1. The January 11, 2023 order to show cause, (ECF No. 82), is DISCHARGED;
- 18 2. Plaintiff's motion for extension of time, (ECF No. 83), is GRANTED;
- 19 3. Plaintiff's opposition to Defendants' motion for summary judgment is due within **thirty**
20 **(30) days** from the date of service of this order; and
- 21 4. **Plaintiff's failure to file an opposition in compliance with this order will result in**
22 **dismissal of this action, with prejudice, for failure to prosecute.**

23
24 IT IS SO ORDERED.

25 Dated: January 17, 2023

26 /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE