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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TREANDOUS A. COTTON,

Plaintiff,

No. CIV S-06-1107 GEB DAD P

vs.

D.L. RUNNELS, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On December 2, 2008, defendants filed a motion to dismiss this action for plaintiff’s failure to exhaust administrative remedies. Plaintiff has not filed an opposition to the motion. Local Rule 78-230(m) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion . . . .” The court will order plaintiff to show cause for his failure to file a timely opposition and to file his opposition, or plaintiff may request the dismissal of this action without prejudice.

On December 31, 2008, plaintiff filed a document styled, “Enlargement of Time, Order to Reinstate Discovery.” Plaintiff seeks additional time to pursue discovery and to file motions to compel discovery. Pursuant to the court’s October 23, 2008 scheduling order,

1 discovery will close on January 23, 2009. In light of the defendants' pending motion to dismiss  
2 based upon plaintiff's alleged failure to exhaust administrative remedies prior to filing suit, the  
3 request will be denied.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Within fourteen days of the date of this order, plaintiff shall file an opposition  
6 to the motion to dismiss and shall show cause in writing why sanctions should not be imposed  
7 for the failure to file a timely opposition. In the alternative, if petitioner no longer wishes to  
8 proceed with this matter, he shall file a request to dismiss this action without prejudice pursuant  
9 to Rule 41(a) of the Federal Rules of Civil Procedure; and

10 2. Plaintiff's December 31, 2008 request for an enlargement of time and order to  
11 reinstate discovery (Docket No. 68) is denied.

12 DATED: January 20, 2009.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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