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

RENO FUENTES RIOS,

Plaintiff,

No. 2:07-cv-00790 WBS KJN P

vs.

J.E. TILTON, et al.,

ORDER

Defendants.

_____ /

Plaintiff seeks an order of this court directing officials at his place of incarceration, California State Prison–Corcoran (“CSP-C”), to accord him “Preferred Legal User” (“PLU”) status in order to obtain priority in accessing and using the resources of the prison law library. (Dkt. No. 62). Plaintiff also seeks an order of this court directing the CSP-C library to photocopy plaintiff’s documents that exceed 50 pages in length.

Pursuant to California Code of Regulations, Title 15, section 3122, inmates with established court deadlines (defined as either a court imposed or statutory deadline) are to be given a higher priority to access law library resources than that provided to “General User”

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1 inmates who proceed without an established court deadline.¹

2 Plaintiff submitted two separate requests for PLU status relative to the dates in
3 this case. The first, filed March 1, 2010, was based on plaintiff's asserted need to file an
4 opposition to defendants' motion to stay discovery in this action, and identified an established
5 court deadline of March 19, 2010. (Id., Exh. B.) The request was denied on the ground that "you
6 don't need the library to serve anybody." (Id.) This matter is now moot. Plaintiff filed his
7 opposition on March 15, 2010 (Dkt. No. 54), and defendants' motion was denied by order of this
8 court filed March 26, 2010 (Dkt. No. 58).

9 ¹ 15 Cal. Code. Regs. § 3122 provides in pertinent part:

10 (b) Inmates who have established court deadlines may apply for Priority Legal
11 User (PLU) status to the prison law libraries. Inmates who are granted PLU status
12 based on their application shall receive higher priority to prison law library
13 resources than other inmates. All inmates who are not on PLU status are on
14 General Legal User (GLU) status.

15 (1) An established court deadline may be either a court imposed deadline for an
16 active case or a statutory deadline. Inmates who apply for PLU status based on a
17 court imposed deadline must show documentation from the court to verify that
18 deadline. Inmates who apply for PLU status based on a statutory deadline must
19 identify the legal rule that compels the deadline.

20 . . . (3) Inmates shall complete and sign a CDCR Form 2171 (Rev. 9/09), Priority
21 Library User (PLU) Request and Declaration, which is incorporated by reference,
22 to apply for PLU status. The Form 2171 shall include check boxes for inmates to
23 designate their established court deadlines. The Form 2171 shall also include a
24 check box for inmates to confirm that they do not have attorney representation for
25 their listed deadline.

26 (4) Except under extraordinary circumstances beyond staff control, law library
staff shall have seven calendar days after receipt of the completed and signed
Form 2171 to process an inmate's application for PLU status and make a decision
to approve or disapprove the application. Staff members who disapprove an
inmate's application shall provide the reasons for their disapproval on the form
and shall provide a copy of that document to the inmate.

. . . (6) An inmate may receive PLU status within 30 calendar days of his or her
established court deadline unless the inmate can demonstrate need for a longer
period of PLU status based on extraordinary circumstances beyond the inmate's
control. . . .

15 Cal. Code. Regs. § 3122(b).

1 Plaintiff's second request, filed April 26, 2010, is based on plaintiff's asserted
2 need to conduct legal research in order to frame his discovery requests, and noted the July 1,
3 2010 discovery deadline in this action set by order of this court filed March 26, 2010 (Dkt. No.
4 58.) (Dkt. No. 62, Exh. B.) Plaintiff also noted established court deadlines of May 15, 2010, and
5 June 15, 2010. The May 15, 2010 deadline apparently refers to the order of this court that further
6 requests for discovery were to be served no later than 45 days prior to July 1, 2010. (Dkt. No. 58,
7 at 3.) The court is unable to ascertain the basis of the June 15, 2010 date. Library staff granted
8 plaintiff's request and access was made available to plaintiff the following day on April 27, 2010.
9 (Id.) Thus, this matter is also moot. Moreover, the May 15, 2010 deadline for propounding
10 further discovery has passed and, while the July 1, 2010 discovery deadline is outstanding,
11 plaintiff does not assert that he requires additional library access in order to respond to
12 defendants' discovery.

13 The court therefore finds no substantive basis for plaintiff's challenges to the
14 responses of CSP-S officials to plaintiff's PLU requests. More significantly, these matters are
15 improperly brought before this court. Inmates claiming interference or denial of their
16 constitutional right of access to the courts must allege an actual injury, Lewis v. Casey, 518 U.S.
17 343, 346 (1996), which plaintiff has not done. More significantly, plaintiff must exhaust his
18 administrative remedies before challenging, on federal grounds, any condition of his
19 confinement. 42 U.S.C. § 1997e(a). Plaintiff's assertion of noncompliance with these
20 institutional regulations does not state a federal claim.

21 A remaining issue is plaintiff's request for an order of this court directing CSP-C
22 staff "to order CSP-Corcoran-SHU, Warden and Litigation Office to approve plaintiff for . . . the
23 duplication of any legal document or exhibit which exceeding (sic) over 50 and/or 100 pages in
24 length and any other discovery transcripts of defendants' answers involved in this litigation."
25 (Dkt. No. 62, at 9.) Plaintiff directs the court's attention to the Operations Manual of the
26 California Department of Corrections and Rehabilitation ("DOM"), Chapter 1, Article 18 ("Legal

1 Matters”), which provides for inmate legal copying services, and has provided copies of
2 implementing rules and procedures in effect at CSP-C. The latter include a prohibition on
3 photocopying any legal document in excess of 50 pages absent a written request by the inmate
4 providing a reasonable explanation for the need to duplicate more, and prohibiting the
5 photocopying of any document exceeding 100 pages absent a court order so directing. (Dkt. No.
6 62, Exh. A.)

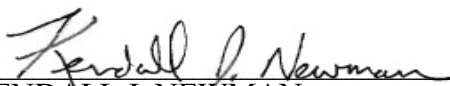
7 The only formal request referenced and included in plaintiff’s motion is a May 7,
8 2010 request to photocopy 61 pages of a “discovery court order,” which was denied pending
9 submission of a written explanation. (Id., Exh. C.) Plaintiff resubmitted the request, explaining
10 that “these request of production of documents (sic) for my discovery order I need to mail them
11 out today.” (Id.) The request was again denied on the ground that a written explanation was
12 required. (Id.)

13 As with plaintiff’s complaints regarding his requests for PLU status, this issue is
14 not properly before the court until plaintiff exhausts his administrative remedies and can properly
15 state a federal claim. Plaintiff is also cautioned that he is not to burden the court with frivolous
16 matters.

17 Accordingly, plaintiff’s motion filed June 14, 2010 (Dkt. No. 62) is denied.

18 SO ORDERED.

19 DATED: June 18, 2010

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24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

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