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

AMOS RYLES,

Plaintiff,

No. 2:08-cv-0615 JAM KJN P

vs.

SMITH,

Defendant.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel with a civil rights complaint pursuant to 42 U.S.C. § 1983. On September 1, 2010, plaintiff filed his third request for extension of time in which to oppose defendant’s motion for summary judgment. Plaintiff contends he needs an additional ninety days to obtain a copy of the amended¹ complaint and the attached “CDCR 602 grievances” to file an opposition to the pending motion. Dkt. No. 65. Plaintiff avers that he was returned to custody as a parole violator and does not have “his legal work product relating to the above case.” Id. at 2.

Plaintiff is advised that it is his responsibility to diligently prosecute this action. Defendant filed the motion for summary judgment on June 7, 2010. Plaintiff was granted an

¹ This is the second time plaintiff has referred to an “amended” complaint. Review of the court docket, however, reveals no amended complaint on file. This action is proceeding on plaintiff’s original complaint filed March 19, 2008.

1 additional thirty days in which to oppose the motion by order filed August 24, 2010. This court
2 is not inclined to provide plaintiff an additional ninety days in which to oppose the motion.

3 However, in the interest of judicial economy, the Clerk of the Court will be
4 directed to send plaintiff a copy of his March 18, 2008 complaint.² Plaintiff will be granted an
5 extension of time until November 15, 2010 in which to file an opposition. No further extensions
6 of time will be granted. Plaintiff is cautioned that failure to file an opposition will be deemed a
7 non-opposition to the pending motion.

8 On July 12, 2010, plaintiff filed a motion to transfer this action to the Southern
9 District of California because he would be “paroling from Donovan State Prison in San Diego on
10 July 15, 2010.” Id. On August 23, 2010, plaintiff informed the court that he was returned to
11 custody on July 28, 2010. Id.

12 Where jurisdiction is not based solely on diversity of citizenship, as is the case
13 with 42 U.S.C. § 1983 actions, venue is proper in:

14 (1) a judicial district where any defendant resides, if all defendants
15 reside in the same State, (2) a judicial district in which a substantial
16 part of the events or omissions giving rise to the claim occurred, or
17 a substantial part of property that is the subject of the action is
situated, or (3) a judicial district in which any defendant may be
found, if there is no district in which the action may otherwise be
brought.

18 28 U.S.C. § 1391(b). In this case, all of the events or omissions giving rise to the claims
19 occurred at High Desert State Prison in Susanville, California, and all of the defendants are
20 located there. Accordingly, venue is appropriate in this district and the interests of justice would
21 not be served by transferring this action to the Southern District of California, Therefore,
22 plaintiff’s motion to transfer this action will be denied.

23 IT IS HEREBY ORDERED that:

24 1. Plaintiff’s September 1, 2010 motion (dkt. no. 65) for a ninety-day extension of
25 time is denied.

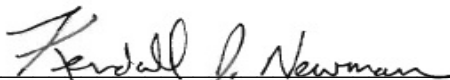
26 _____
² The first four pages of the electronic version of the original complaint are illegible, so the
Clerk will be directed to photocopy those pages from the hard copy of the original complaint.

1 2. The Clerk of the Court is directed to photocopy the first four pages of the hard
2 copy of the original complaint, filed March 19, 2008, and print out pages 5 to 24 of the scanned
3 original complaint, and serve said copies on plaintiff at his address of record.

4 3. Plaintiff is granted up to and including November 15, 2010 in which to file and
5 serve an opposition to defendant's motion for summary judgment. No further extensions of time
6 will be granted.

7 4. Plaintiff's July 12, 2010 motion (dkt. no. 60) is denied.

8 DATED: September 8, 2010

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12 KENDALL J. NEWMAN
13 UNITED STATES MAGISTRATE JUDGE

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