IN THE UNITED STATES DISTRICT COURT

FOR THE EAS TERN DISTRICT OF CALIFORNIA

ELONZA JESSE TYLER, No. 2:08CV-02222 ODW

Plaintiff,

vs.

MIKE E. KNOWLES, et al.

Defendants. ORDER

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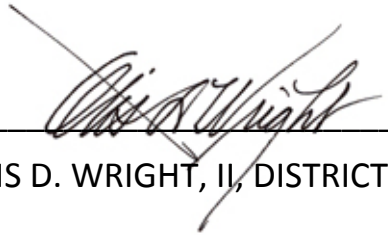
On December 27, 2010 Plaintiff filed a document entitled "Notice of Motion and Motion Requesting Permission for Ex Parte To Move for Summary Adjudication." The court disregards the request for an ex parte filing because there is no provision in Rules of Civil Procedure Rule 56 for the filing of a motion for summary judgment or summary adjudication on an ex parte basis. Indeed, Rule 56(c) requires that the "motion must be served at least 10 days before the day set for the hearing." Indeed, the proof of service appended to the Motion reflects service on the Office of the Attorney General.

Substantively, plaintiff has utterly failed to demonstrate that he is entitled to judgment in his favor. While the document itself is 82 pages, it is completely devoid of evidentiary support which would entitle plaintiff to judgment as a matter of law.

There is no memorandum of points and authorities nor a listing of undisputed material facts and supporting evidence. While Rule 56 does not expressly require it, there is no supporting affidavit nor answers to interrogatories or other discovery. The motion merely states "Plaintiff will demonstrate for the court, material facts that establish prima facie evidence of the facts in the complaint, which he believes would best be decided in a Rule 56 summary adjudication proceeding." This is followed by 80 pages of various documents which on the current state of the record, would not be admissible evidence. In sum, plaintiff seeks summary adjudication - on an unspecified issue, on the basis of no admissible evidence.

For these reasons, the motion is **DENIED**.

DATED: December 29, 2010



OTIS D. WRIGHT, II, DISTRICT JUDGE