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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VINCENT SOLOMON,

 Plaintiff,

 v.

T. FELKER, et al.,

 Defendants.

No. 2:08-cv-2544 KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. The parties have consented to the jurisdiction of the undersigned. (ECF No. 88.) Plaintiff is housed at the Substance Abuse Treatment Facility (“SATF”) in Corcoran.

Pending before the court is plaintiff’s January 26, 2015 motion requesting that the court order prison officials to return his legal property. (ECF No. 140). For the following reasons, this motion is denied.

Background

On September 19, 2014, defendants filed a summary judgment motion. (ECF No. 134). On November 10, 2014, plaintiff filed a motion for access to his legal property and for a ninety days extension of time to file his opposition. (ECF No. 137.) In this motion, plaintiff alleged that prison officials took all of his legal property and refused to return it.

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1 On November 21, 2014, the undersigned denied plaintiff's motion for access to his legal
2 property. (ECF No. 138.) The undersigned found that the exhibits attached to plaintiff's motion
3 did not support his claim that his property was confiscated and that prison officials refused to
4 return it. (Id.) Plaintiff's exhibits demonstrated that plaintiff was allowed to have the amount of
5 legal property in his cell that is permitted for inmates in administrative segregation. (Id.)
6 Plaintiff's exhibits also demonstrated that plaintiff could trade a box of legal property in his cell
7 for a box of legal property in storage. (Id.) In other words, procedures existed for plaintiff to
8 have access to his legal property that was not in his cell. (Id.) The November 21, 2014 order
9 granted plaintiff thirty days to file his opposition.

10 Thirty days passed and plaintiff did not file his opposition. Accordingly, on January 7,
11 2015, the undersigned ordered that this action would be dismissed if plaintiff failed to file his
12 opposition within thirty days. (ECF No. 139.)

13 On January 26, 2015, plaintiff filed the pending motion. (ECF No. 140.) Plaintiff alleges
14 that prison officials confiscated all of his legal property on October 8, 2014. (Id.) Plaintiff
15 alleges that most of his legal property is stored in a warehouse. (Id.) Plaintiff alleges that prison
16 officials will not give him access to his legal property without a court order. (Id.)

17 No defendants are located at SATF. Usually persons or entities not parties to an action are
18 not subject to orders for injunctive relief. Zenith Radio Corp. v. Hazeltine Research, Inc., 395
19 U.S. 100 (1969). However, the fact that one is not a party does not automatically preclude the
20 court from acting. The All Writs Act, 28 U.S.C. § 1651(a), permits the court to issue writs
21 "necessary or appropriate in aid of their jurisdiction and agreeable to the usages and principles of
22 law." See generally S.E.C. v. G.C. George Securities, Inc., 637 F.2d 685 (9th Cir. 1981); United
23 States v. New York Telephone Co., 434 U.S. 159 (1977). This section does not grant the court
24 plenary power to act in any way it wishes; rather the All Writs Act is meant to aid the court in the
25 exercise and preservation of its jurisdiction. Plum Creek Lumber Company v. Hutton, 608 F.2d
26 1283, 1289 (9th Cir. 1979).

27 On January 28, 2015, pursuant to the All Writs Act, the undersigned issued an order
28 directing the Warden where plaintiff is housed to respond to plaintiff's pending motion. (ECF

1 No. 141.) In this order, the undersigned observed that on September 19, 2014 defendant filed a
2 summary judgment motion which plaintiff had not opposed. (Id.) The undersigned stated that the
3 court was concerned that it would lose jurisdiction if plaintiff was unable to prosecute this case
4 because he was being denied access to his legal property. (Id.)

5 Discussion

6 On February 5, 2015, SATF Litigation Coordinator Barba filed a declaration in response
7 to the January 28, 2015 order. (ECF No. 143.) Litigation Coordinator Barba states, in relevant
8 part,

9 3. Solomon was transferred to SATF from CSP-Corcoran on
10 October 8, 2014. Attached here as Exhibit A is a copy of
Solomon's transfer and bed reassignment history.

11 4. Solomon is currently housed in the Administrative Segregation
12 Unit (ASU) in cell E1-116L. He is in ASU pending the outcome of
13 two disciplinary actions for "Battery on a Non-Prisoner" and
14 "Conspiracy to Assault a Peace Officer." If found guilty, he will
15 most likely serve a term in a Security Housing Unit (SHU); at that
16 point, he will be put up for transfer to an institution with a SHU.
He will likely remain in SATF's ASU until both disciplinary
actions are decided. Attached here as Exhibit B is a copy of
Solomon's December 16, 2014 Classification Committee Chrono
from his most recent classification hearing.

17 5. To obtain the information needed to respond to the Court's order
18 concerning Solomon's property, I contacted the ASU Sergeant and
19 Law Library Officer. I also obtained copies of Solomon's requests
20 for law library services and supplies, including the relevant pages
from the library's log, since he arrived at SATF. This declaration is
based on the information these individuals provided and that is
contained in the documents, which are attached here as Exhibits C
to E.

21 6. When Solomon was transferred to SATF, he arrived with
22 approximately 16 cubic feet (or about 8 boxes) of legal material.
On October 17, 2014, he was issued his property, including 6 cubic
23 feet (about 3 boxes) of legal material. (See Inmate/Parolee Request
for Interview, Item or Service, Ex. C.) Due to the prison's
24 property-restriction policy, he is only allowed to have 6 cubic feet
of legal property in his cell. Solomon's remaining legal property is
25 stored in the ASU and can be accessed during the weekdays by
submitting a request to the E1 Law Library. Solomon can
26 rotate/substitute out his boxes of legal material, but he can only
have 6 cubic feet of legal material in his cell at any given time.

27 7. Since Solomon's transfer to SATF, he has submitted several
28 requests for law library services and supplies. Soon after his
arrival, he submitted a request to obtain Preferred Legal User (PLU)

1 status. (PLU status is granted to an inmate who has a verified court
2 deadline, and he receives higher priority to prison law library
3 resources than other inmates.) Although the request is dated
4 October 8, 2014 (the day he arrived at SATF), it was not signed
5 until October 13, 2014. (Ex. D, 1.) This request appears to have
6 been rendered moot by another PLU request he submitted on
7 October 14, 2014. This latter request was granted and he received
8 PLU status from October 17 to 23, 2014. (Ex. D, 2.) Solomon was
9 also given access to the law library on October 17, 2014. (Ex. E,
10 1.)

11 8. On October 22, 2014, Solomon submitted another request for
12 PLU status, which was granted. He received PLU status from
13 November 4 to 20, 2014. (Ex. D, 3.)

14 9. On October 27, 2014, Solomon received supplies from the law
15 library. (Ex. E, 2.) The next day, he submitted a GA-22 form
16 requesting law library access and more supplies. (Ex. D, 4.) His
17 request was granted on November 1, 2014 and he was given access
18 to the law library and supplies. (Ex. E, 2.) Two days later, on
19 November 3, he received copies. (Id.)

20 10. On November 6, 2014, Solomon submitted another GA-22
21 requesting copies and various other services from the law library.
22 (Ex. D, 5.) The request was granted the same day, and he received
23 supplies and copies. (Id.; Ex. E, 2.)

24 11. On November 20, 2014, Solomon submitted a GA-22 for
25 various information and documents. (Ex. D, 6.) The request was
26 partially granted as the librarian was waiting to obtain the
27 additional information on November 28, 2014. (Id.)

28 12. On November 23, 2014, Solomon submitted another GA-22
requesting writing and mailing supplies. (Ex. D, 7.) He was
provided the requested supplies five days later on November 28.
(Id.; Ex. E, 3.)

13. On November 25, 2014, Solomon submitted a request to renew
his PLU status. (Ex. D, 8.) It was granted, and he was given PLU
status from December 2 to 21, 2014. (Id.)

14. Around December 19, 2014, Solomon submitted a request for
copies and supplies. (Ex. D, 9.) In early January 2015, he
informed staff that he no longer needed copies because he mailed
out the originals. (Id.)

15. Solomon received copies on November 25, 2014 and January
2, 2015. (Ex. E, 5.)

16. Based on the information and documents I received, Solomon
has been receiving PLU status and law-library services and supplies
since he arrived at SATF.

17. There is no indication that Solomon has submitted a request to
access his legal property from storage or that he has sought to

1 exchange the boxes he has in his cell with those in storage since he
2 was given his property on October 17, 2014.

3 (ECF No. 143 at 2-4.)

4 Litigation Coordinator Barba's declaration indicates that plaintiff has adequate access to
5 the law library and legal supplies. With respect to plaintiff's claim that he is being denied access
6 to his legal property, Litigation Coordinator Barba's declaration indicates that plaintiff may
7 request access to his stored legal property but has not done so.

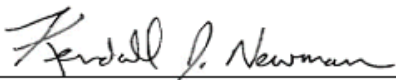
8 Based on the information contained in Litigation Coordinator Barba's declaration, the
9 undersigned finds that plaintiff is not being denied access to his legal property, legal supplies or
10 the law library. Under these circumstances, invocation of the All Writs Act is not warranted.

11 Accordingly, IT IS HEREBY ORDERED that:

12 1. Plaintiff's motion for a court order directing prison officials to grant him access to his
13 legal property (ECF No. 140) is denied;

14 2. Plaintiff is granted thirty days from the date of this order to file an opposition to
15 defendants' summary judgment motion; failure to file an opposition within that time will result in
16 a finding of waiver of opposition.

17 Dated: February 13, 2015

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

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