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

ROBERT TUNSTALL,

Plaintiff,

No. 2:08-cv-3176 WBS JFM (PC)

vs.

MIKE KNOWLES, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding through counsel with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed October 19, 2011, the parties were directed to file, within forty-five days, a proposed briefing schedule for defendants' April 27, 2011 motion for summary judgment. The forty-five day period expired and the parties filed neither a proposed briefing schedule nor a request for an extension of time in which to do so.

For that reason, by order filed December 16, 2011, counsel for plaintiff was directed to shall show cause in writing within ten days why defendants' April 27, 2011 motion for summary judgment should not be submitted for findings and recommendations on the present record. Counsel did not respond to the order to show cause, and by order filed January 6, 2012, this matter was set for status conference on January 19, 2012. Counsel for defendants appeared at the status conference, but counsel for plaintiff did not appear.

1 On January 26, 2012, counsel for plaintiff filed a response to the December 16,
2 2011 order to show cause. Therein, counsel requests a continuance of one hundred twenty days.

3 After review of the record, and good cause appearing, IT IS HEREBY ORDERED
4 that:

5 1. Defendants' April 27, 2011 motion for summary judgment is denied without
6 prejudice.

7 2. On or before February 17, 2012, defendants shall renew their motion for
8 summary judgment. Defendants may renew their motion by filing a notice of renewal and
9 incorporating therein by reference the April 27, 2011 motion for summary judgment, or
10 defendants may file new motion for summary judgment.

11 3. Plaintiff's opposition to defendants' renewed motion for summary judgment
12 shall be filed and served not later than April 17, 2012.

13 4. Defendants' reply shall be filed and served not later than May 17, 2012.

14 5. The court will, as appropriate, set the motion for summary judgment for oral
15 argument on a regular law and motion calendar after defendants' reply brief is filed.

16 DATED: January 31, 2012.

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19 UNITED STATES MAGISTRATE JUDGE

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