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

LAFONZO R. TURNER,

Plaintiff,

No. 2:09-cv-0117 WBS KJN P

vs.

SACRAMENTO COUNTY JAIL, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding without counsel. On December 1, 2010, plaintiff filed a motion for extension of time to file opposition to defendants' pending motion for summary judgment. Plaintiff also asks for additional time to pursue discovery. Pursuant to this court's May 11, 2010 scheduling order, discovery closed September 7, 2010.

Plaintiff also filed another motion seeking access to his legal materials. (Dkt. Nos. 82.) The court ordered defendants to address plaintiff's claims, and postponed ruling on plaintiff's request for extension pending receipt of briefing. (Dkt. No. 90.) On January 13, 2011, defendants filed a comprehensive response to the court's order. (Dkt. No. 96-1.)

Defendants have provided evidence that plaintiff was issued his personal property, including legal materials, on August 2, 2010. (Dkt. No. 96-1 at 2; Ex. B.) Defendants also explained the procedures inmates can use to separate legal materials for storage in administrative

1 segregation, and pointed out that plaintiff has failed to demonstrate he availed himself of those
2 procedures. Plaintiff has also failed to demonstrate that he has legal materials in storage, or that
3 he possesses legal materials in excess of the three cubic feet of legal materials that inmates are
4 allowed to possess in their administrative segregation cells. Plaintiff has also failed to rebut
5 defendants' evidence that plaintiff has had numerous legal documents provided to him while he
6 was housed in administrative segregation (dkt. no. 96-1 at ex. C), as well as the fact that he
7 physically attended law library on at least four occasions. (Dkt. No. 96-1 at Ex. D.)

8 Finally, defendants point out that plaintiff filed a 91 page opposition to the motion
9 for summary judgment on December 17, 2010. The length of plaintiff's filing suggests plaintiff
10 had access to writing implements and paper, as well as to his legal materials, and the law library.
11 For all these reasons, plaintiff's November 1, 2010 motion is denied. The court turns now to
12 plaintiff's request for extensions of time.

13 On December 1, 2010, plaintiff requested a continuance of discovery so that
14 plaintiff could obtain declarations, take depositions, and undertake other discovery. However,
15 plaintiff fails to identify from whom declarations are needed, whose depositions need to be taken,
16 or what discovery he still needs. Plaintiff failed to provide an affidavit or declaration in support
17 of his request. Fed. R. Civ. P. 56(d). Accordingly, plaintiff has failed to demonstrate good cause
18 to reopen discovery. Fed. R. Civ. P. 16(b)(4).

19 With regard to plaintiff's request for extension of time to oppose defendants'
20 motion for summary judgment, plaintiff has now filed an opposition. (Dkt. No. 94.) On January
21 18, 2011, plaintiff filed a declaration in support of his opposition. (Dkt. No. 97.) Accordingly,
22 the court will grant plaintiff's request for extension of time and find plaintiff's opposition was
23 timely-filed. Defendants will be granted an opportunity to file a reply and, upon the filing of the
24 reply or the passing of the reply period, the motion for summary judgment will stand submitted.
25 Plaintiff shall file no further documents pending resolution of the motion for summary judgment.

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1 IT IS HEREBY ORDERED that:

2 1. Plaintiff's November 1, 2010 motion (dkt. no. 82) is denied;

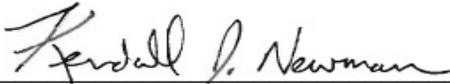
3 2. Plaintiff's request for additional time to pursue discovery (dkt. no. 84) is
4 denied;

5 3. Plaintiff's December 1, 2010 motion for extension of time to file an opposition
6 to the motion for summary judgment (dkt. no. 84) is granted;

7 4. Plaintiff's December 17, 2010 opposition (dkt. no. 94) and January 18, 2011
8 declaration (dkt. no. 97) are deemed timely filed; and

9 5. Defendants' reply to plaintiff's opposition, if any, shall be filed seven days
10 from the date of this order. At that time, the motion for summary judgment will stand submitted.

11 DATED: February 3, 2011

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14 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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