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

TONY ASBERRY,

Plaintiff,

No. 2:09-cv-01494 MCE KJN P

vs.

MATHEW CATE, et al.,

Defendants.

ORDER

_____ /

On May 11, 2012, plaintiff filed a motion seeking the termination of his “orientation status,” a classification in which plaintiff asserts he has been improperly retained since his transfer to R. J. Donovan Correctional Facility in March 2012. Plaintiff alleges that this prolonged classification, and attendant conditions of confinement, are causing him significant mental and physical harm. While plaintiff’s motion appears to request a remedy that must first be administratively exhausted, the court construes it, for present purposes, as a motion for preliminary injunctive relief. So construed, defendants will be required to file a response.

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Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion filed May 11, 2012 (Dkt. No. 56), is construed as a motion for preliminary injunctive relief;
2. Defendants shall, within fourteen days after the filing date of this order, file and serve a response to plaintiff's motion; and
3. Plaintiff may, within ten days after service of defendants' response, file a reply.

SO ORDERED.

DATED: May 21, 2012


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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