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

MALIK JONES,

Plaintiff,

No. 2:09-cv-2133 KJM KJN P

vs.

C. PLESSAS, et al.,

Defendant.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding without counsel. This action is proceeding on the third amended complaint (“TAC”), filed November 16, 2010. (Dkt. No. 25.) Pursuant to findings and recommendations issued October 22, 2010 (dkt. no. 22), and the district court’s December 10, 2010 order (dkt. no. 26), various claims were dismissed, and this action is proceeding on these remaining claims in the TAC:

1. Plaintiff alleges that defendants A. Pickens, Martines, Laeres,<sup>1</sup> Plessas, Smith, Kissinger and Fletcher used excessive force and failed to protect plaintiff on June 25, 2008. (Dkt. No. 25 at 4.) Plaintiff included state law claims of assault and battery and the intentional infliction of emotional distress.

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<sup>1</sup> Defendant Laeres was incorrectly named as defendant Lorad in the TAC. (Dkt. No. 53 at 4 n.1.)

1           2. On October 8, 2008, plaintiff alleges defendant Jackson used excessive force,  
2 in violation of the Eighth Amendment, and raises state law claims of assault and battery and the  
3 intentional infliction of emotional distress. (Dkt. No. 25 at 7.)

4           3. Plaintiff alleges defendants Cosby, Wright, Boretz, and Krauss<sup>2</sup> retaliated  
5 against plaintiff for his litigation. (Dkt. No. 25 at 5.)

6           4. Plaintiff alleges defendants A. Pickens, Martines, Laeres, Smith and Kissinger  
7 were deliberately indifferent to plaintiff's serious medical needs. (Dkt. No. 25 at 4-5, ¶¶ 46-53.)

8           Defendants' motion to dismiss based on plaintiff's alleged failure to exhaust  
9 administrative remedies is presently pending. In plaintiff's opposition, plaintiff claims he  
10 attempted to obtain an Olson or central file review to "get copies of 602s that were screen[ed] out  
11 fraudulently to show the court more proof of [plaintiff] filing proper 602 forms and prison  
12 officials committing misconduct to prevent [plaintiff] from properly exhausting administrative  
13 remedies." (Dkt. No. 51 at 2.) Plaintiff's request was denied because the Attorney General had  
14 plaintiff's central file. (Id.) Plaintiff provided a copy of his May 10, 2011 request to view the  
15 central file. (Dkt. No. 51 at 17.) The request notes plaintiff sought review about a month prior,  
16 and sought review A.S.A.P. (Id.)

17           In an abundance of caution, plaintiff is granted an extension of time in which to  
18 submit copies of appeal forms plaintiff contends support his oppositions to the pending motions  
19 to dismiss. Plaintiff shall seek an Olson or central file review, and if prison officials notify  
20 plaintiff his central file is still unavailable, shall inform the court. If plaintiff fails to timely  
21 provide these documents, the court will rule on the motions as presently submitted.

22           Accordingly, IT IS HEREBY ORDERED that:

23           1. Plaintiff shall forthwith seek an Olson or central file review, and if prison  
24 officials notify plaintiff his central file is still unavailable, shall immediately inform the court;

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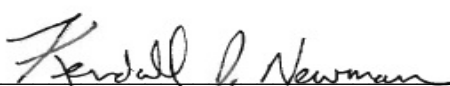
25           <sup>2</sup> Defendants Boretz and Krauss were incorrectly named as defendants Boras and Cross  
26 in the TAC. (Dkt. No. 53 at 5 n.2.)

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2. Plaintiff is granted thirty days from the date of this order in which to submit  
copies of appeal forms; and

3. Defendants shall file a reply within seven days thereafter.

DATED: September 28, 2011

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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