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

LEONARDO DONTE,

Plaintiff,

No. 2:10-cv-0299 KJM JFM (PC)

vs.

D. SWINGLE, et al.,

Defendants.

ORDER

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On September 1, 2010, the undersigned issued a discovery and scheduling order in this matter and set a March 11, 2011 deadline for filing pretrial motions. On November 10, 2010, defendant filed a motion to dismiss. On December 27, 2010, plaintiff filed an opposition. On March 16, 2011, the undersigned issued findings and recommendations recommending that defendant’s motion to dismiss be granted and this action be dismissed for failure to exhaust administrative remedies. The findings and recommendations are presently pending before the Honorable Kimberly J. Mueller.

On March 18, 2011, plaintiff filed a document entitled “Defendant French’s Ex Parte Request to Vacate Deadline to File Dispositive Motion.” On June 2, 2011, the undersigned directed defendant to respond to plaintiff’s motion. On June 10, 2011, defendant filed a response. Upon consideration of the motion and defendant’s response, the court it is puzzled by the precise nature of plaintiff’s request. Nonetheless, the court will construe it as best as it can.

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1 Initially, as defendant points out, plaintiff's motion is titled "*Defendant French's*
2 *Ex Parte Request to Vacate Deadline to File Dispositive Motion,*" the identical title on the
3 February 23, 2011 motion filed by defendant. (Emphasis added; compare Doc. No. 40 with Doc.
4 No. 43.) In his motion, which is, in fact, a declaration, plaintiff appears to refer (without more)
5 to his February 28, 2011 motion seeking access to the law library. That motion, however, was
6 denied on March 16, 2011 in the findings and recommendations currently pending before Judge
7 Mueller. Thus, to the extent plaintiff's motion is a request to supplement his February 28, 2011
8 motion, that request will be denied. Further, attached to plaintiff's motion are administrative
9 grievance forms wherein plaintiff challenges the conduct of a correctional officer not named as a
10 defendant in this action. It is unclear what plaintiff intends by submitting these documents.
11 Finally, insofar as plaintiff contends that he has been denied law library access, defendant
12 submits the declaration of James Williamson, the Library Supervisor employed at Salinas Valley
13 State Prison where plaintiff is housed. See Doc. No. 46, Ex. 1. Williamson declares that
14 plaintiff has accessed the library multiple times from November 2010 to April 2011. See
15 Williamson Decl., ¶¶ 8-9.

16 Accordingly, IT IS HEREBY ORDERED that plaintiff's March 18, 2011 motion
17 is denied.

18 DATED: June 23, 2011.

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21 UNITED STATES MAGISTRATE JUDGE

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