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

ANTWAN BURT,

Plaintiff,

No. 2:10-cv-0942 MCE JFM (PC)

vs.

D.E. SWINGLE, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On August 20, 2010, defendants Moreno and Swingle answered the complaint. Eighteen days later, on September 7, 2010, plaintiff filed a motion for summary judgment. On September 17, 2010, defendants filed a motion pursuant to Federal Rule of Civil Procedure 56(f) for denial or continuance of plaintiff’s motion. Defendants sought this relief on the grounds that plaintiff’s motion was filed before discovery could commence and because discovery they deemed essential had not be completed. On October 4, 2010, plaintiff filed an opposition to the motion. On December 15, 2010, defendants filed an opposition to plaintiff’s motion for summary judgment. On January 3, 2011, plaintiff filed a reply in support of the motion. On February 4, 2011, defendants filed objections to plaintiff’s declaration filed in reply to their opposition, and on March 7, 2011, plaintiff filed a response to defendants’ objections. Defendants’ motion for denial or continuance of plaintiff’s motion for summary judgment is

1 moot and will therefore be denied. Plaintiff's motion for summary judgment is submitted for
2 findings and recommendations.¹

3 On December 15, 2010, plaintiff filed a motion for a protective order, seeking
4 relief from the obligation to respond to discovery requests propounded by defendants pending
5 ruling on defendants' motion to continue or deny plaintiff's summary judgment motion.

6 Defendants opposed that motion. On February 15, 2011, plaintiff filed notice that he had
7 responded in full to defendants' discovery request. Plaintiff's motion for protective order is moot
8 and will therefore be denied.

9 In accordance with the above, IT IS HEREBY ORDERED that:

10 1. Defendants' September 17, 2010 motion for denial or continuance of plaintiff's
11 motion for summary judgment is denied; and

12 2. Plaintiff's December 15, 2010 motion for protective order (Docket No. 26) is
13 denied.

14 DATED: March 25, 2011.

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17 UNITED STATES MAGISTRATE JUDGE

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25 ¹ On March 11, 2011, defendants filed a motion for summary judgment. Said motion
26 shall be briefed in accordance with the provisions of Local Rule 230(1) and this court's order
filed May 28, 2010. The court will make findings and recommendations on both motions for
summary judgment after briefing is completed on defendants' motion.