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

ALVARO HERNANDEZ,

Plaintiff,

No. 2:10-cv-2446 LKK CKD P

vs.

K. BOUWMAN, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. Defendant McDaniels (defendant) filed a motion for summary judgment on June 29, 2012. Plaintiff has not yet filed an opposition despite being given two extensions of time to do so.

On September 26, 2012, plaintiff requested that the court postpone consideration of defendant’s motion for summary judgment. Plaintiff asserts that because he is being housed in administrative segregation, he cannot access the law library at his prison and because he cannot access the law library at his prison, he cannot conduct research necessary for plaintiff to complete his opposition. Plaintiff does not specify what areas of the law he needs to research.

Defendant opposes plaintiff’s motion. With his opposition, defendant includes an affidavit from a librarian at plaintiff’s place of incarceration. The librarian indicates that plaintiff

1 is not being denied access to the law library because plaintiff is housed in administrative
2 segregation. He or she also indicates that on July 4, 2012, plaintiff submitted a request for law
3 library access on the wrong form. Therefore, plaintiff was not granted access to the law library.
4 In the affidavit, the librarian indicated he or she would send plaintiff the correct form. The court
5 assumes that has occurred. Plaintiff did not file a reply to defendant's opposition.

6 Good cause appearing, plaintiff's request that the court postpone consideration of
7 defendant's motion for summary judgment will be denied and plaintiff will be granted one final
8 30-day extension of time to file his opposition. If plaintiff is denied access to the law library to
9 the extent that he is incapable of completing his opposition on time, he must explain, in a
10 document signed under the penalty of perjury, the steps he has taken to gain access to the library
11 and the precise reasons why he needs access to the law library. Plaintiff may be sanctioned,
12 possibly with dismissal of this action, if the court finds plaintiff is delaying this action without
13 good cause.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. Plaintiff's September 26, 2012 request that the court postpone consideration of
16 defendant McDaniels's motion for summary judgment (Dkt. No. 83) is denied.

17 2. Plaintiff shall file his opposition to defendant McDaniels's motion for
18 summary judgment within thirty days. Failure to file an opposition within thirty days, or at least
19 the affidavit described above concerning law library access, will result in a recommendation that
20 this action be dismissed. Any reply to plaintiff's opposition shall be filed within 14 days of
21 service of the opposition.

22 Dated: October 29, 2012

23 
24 _____
25 CAROLYN K. DELANEY
26 UNITED STATES MAGISTRATE JUDGE