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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS,
Plaintiff,
v.
A.J.R. BRADFORD, et al.,
Defendants.

No. 2:11-cv-1171 TLN DB P

ORDER

Plaintiff is a prisoner proceeding pro se with an action under 42 U.S.C. § 1983. On January 14, 2016, defendants moved for summary judgment. On February 12, 2016, plaintiff was granted an extension of time to file an opposition to the motion for summary judgment. On April 21, 2016, the court noted that plaintiff had failed to file an opposition and gave plaintiff an additional fourteen days. Plaintiff was warned that failure to file an opposition within that time period “shall result in a recommendation that this action be dismissed.” (ECF No. 74.) On May 11, 2016, the magistrate judge then presiding recommended that this action be dismissed due to plaintiff’s failure to file a timely opposition to the summary judgment motion.

On July 13, 2016, plaintiff filed a “Motion to Vacate all Orders and Issue a Temporary Stay of Proceedings.” Therein, plaintiff states that he did not receive the court’s orders dated April 21 or the court’s findings and recommendations dated May 11. He explains that he was hospitalized from March 17, 2016 through June 20, 2016 and did not have his legal materials

1 while there. A copy of the hospital discharge sheet is attached to plaintiff's July 13 motion.

2 Defendants oppose the motion to vacate and oppose any further extensions of time. (ECF
3 No. 78.) Defendants show that during the period of his hospitalization, plaintiff was able to file
4 documents in two other cases.

5 Plaintiff has shown that he was hospitalized during the period of time that the court issued
6 its April 21 order and May 11 findings and recommendations. Plaintiff filed the motion to vacate
7 shortly after being released from the hospital. While the court recognizes that plaintiff may have
8 been able to keep up with some legal work, the court finds plaintiff's explanation provides good
9 cause for one additional opportunity to file an opposition to defendants' motion. However,
10 plaintiff is warned that failure to file an opposition to the motion for summary judgment within
11 the time provided will result in a recommendation that this action be dismissed without prejudice.

12 Accordingly, and good cause appearing, IT IS HEREBY ORDERED as follows:


13 1. Plaintiff's Motion to Vacate all Orders and Issue a Temporary Stay of Proceedings
14 (ECF No. 76) is granted in part and denied in part.

15 a. The findings and recommendations issued on May 11, 2016 (ECF No. 75) are
16 vacated.

17 b. Plaintiff has failed to show good cause to stay these proceedings. His request for a
18 stay is therefore denied.

19 2. Plaintiff shall file any opposition to defendants' January 14, 2016 Motion for
20 Summary Judgment within thirty (30) days of the filed date of this order. No further
21 extensions of time to file the opposition will be granted. If plaintiff fails to timely file
22 the opposition, this court will recommend dismissal of this action without prejudice.

23 Dated: October 31, 2016

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27 DEBORAH BARNES
28 UNITED STATES MAGISTRATE JUDGE

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