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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IVAN KILGORE,
Plaintiff,
v.
GRANNIS, et al.,
Defendants.

No. 2:11-cv-1745 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. Defendants filed a motion for summary judgment on May 16, 2016. On June 27, 2016, plaintiff filed an opposition. Defendants filed a reply on July 18, 2016.

On July 29, 2016, plaintiff filed a motion for an extension of time to file a response, essentially a sur-reply, to defendants’ reply brief. (ECF No. 67.) Defendants opposed that motion. (ECF No. 69.) On August 5, plaintiff filed that response. (ECF No. 70.) On August 18, defendants moved to strike plaintiff’s sur-reply. (ECF No. 71.) Any opposition to the motion to strike was due by September 12, 2016. Local Rule 230(l). Plaintiff has not filed an opposition to defendants’ motion.

In the court’s November 20, 2013 order, the parties were advised that all motions filed in this case “shall be briefed pursuant to L.R. 230(l).” (ECF No. 21 at 3.) Local Rule 230(l) provides for the filing of a motion, opposition, and reply. The rule states that motions in prisoner


1 cases “will be deemed submitted when the time to reply has expired.” The rule does not provide for
2 the filing of a sur-reply.

3 In his request for an extension of time, plaintiff states that he needs to file an additional brief
4 because in their reply defendants “contested” a “number of issues” that “were not raised in their
5 moving papers.” (ECF No. 67.) In their opposition to plaintiff’s motion, defendants state that they
6 “did not provide any new evidence in the reply to Plaintiff’s opposition, nor did Defendants raise new
7 issues or arguments.” (ECF No. 69 at 3.) Plaintiff does not identify any new issues or arguments
8 either in his motion for an extension of time or in the “response” he filed on August 5. Plaintiff has
9 failed to show why the court should permit his additional brief. Plaintiff is advised that if the court
10 requires additional briefing, it will order the parties to provide it.

11 Accordingly, IT IS HEREBY ORDERED as follows:

- 12 1. Plaintiff’s July 29, 2016 Motion for Extension of Time (ECF No. 67) is denied;
- 13 2. Defendants’ August 18, 2016 Motion to Strike (ECF No. 71) is granted; and
- 14 3. Plaintiff’s August 5, 2016 Response (ECF No. 70) is stricken from the record.

15 Dated: September 28, 2016

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19 DEBORAH BARNES
20 UNITED STATES MAGISTRATE JUDGE

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