UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

LEE'THIEL PAYNE,

Plaintiff,

v.

J. MARTIN, et al.,

Defendants.

No. 2:11-cv-1970-TLN-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. In his July 10, 2015 filing, he states that his property was packed when he was transferred to a new prison and he is requesting the court to order that it be returned to him. He has not indicated whether he has completed the administrative process available at his institution with regard to this complaint.

Plaintiff's claim for the return of his personal property cannot be adjudicated in this action without properly exhausting it through the administrative appeals process. *See McKinney v. Carey*, 311 F.3d 1198, 1199-1201 (9th Cir. 2002) (per curiam) and *Rhodes v. Robinson*, 621 F.3d 1002, 1004-07 (9th Cir. 2010) (together holding that claims must be exhausted prior to the filing of the original or supplemental complaint).

It does not appear from the record that plaintiff was facing an imminent court deadline when he filed his request. Should any delay in the return of plaintiff's legal property interfere

with his ability to meet a court-imposed deadline in the future, plaintiff may request that the court grant him an extension of time, explaining why he has been unable to meet the deadline in the time provided. If plaintiff seeks additional time on the grounds he did not have adequate access to his legal property, he must indicate why he is unable to meet the deadline without that property, what specific requests he has made for access to that property, and how prison officials have responded to those requests.

Accordingly, IT IS HEREBY ORDERED that plaintiff's July 10, 2015 motion for the return of property (ECF No. 91) is denied without prejudice.

DATED: December 1, 2015.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE