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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY O’KEEFE,  
Plaintiff,  
v.  
JERRY BROWN, et al.,  
Defendants.

No. 2:11-cv-2659 KJM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On September 29, 2017, the Honorable Kimberly J. Mueller granted in part and denied in part defendants’ summary judgment motion. (ECF No. 282.) Judge Mueller denied defendants’ summary judgment motion as to plaintiff’s claims for injunctive relief against defendants Sirkin, Howlin, Wynn and Deputy Director of the California Department of Corrections and Rehabilitation (“CDCR”) Statewide Mental Health Program. (Id.)

Judge Mueller referred this matter back to the undersigned for further proceedings which may include: a settlement conference; a further motion with specified briefing for summary judgment; or an evidentiary hearing on the merits of plaintiff’s claim for prospective injunctive relief. (Id. at 10.)

The undersigned has determined that a further motion for summary judgment is appropriate. In her order, Judge Mueller found that the parties had not fully briefed the standards

1 applicable to plaintiff's claim for injunctive relief against defendants in their official capacities.  
2 (Id. at 7-8.) Judge Mueller referred this matter back to the undersigned for further proceedings on  
3 that issue. (Id. at 8.)

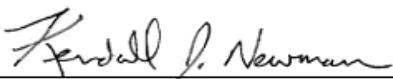
4 Accordingly, within thirty days of the date of this order, defendants shall file a  
5 supplemental summary judgment motion. In particular, defendants shall address the following  
6 issues: 1) are any defendants capable of responding to an order granting plaintiff's request for  
7 injunctive relief; and 2) do plaintiff's claims for injunctive relief attack a state policy or procedure  
8 on federal grounds.

9 Plaintiff has also filed a motion requesting appointment of counsel. (ECF No. 283.) The  
10 undersigned has denied plaintiff's previous motions for appointment of counsel. (ECF Nos. 199,  
11 208, 233, 240, 250.) For the reasons stated in those orders, plaintiff's pending motion for  
12 appointment of counsel is denied.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff's motion for appointment of counsel (ECF No. 283) is denied;
- 15 2. Within thirty days of the date of this order, defendants shall file a supplemental  
16 summary judgment motion, as discussed above. Thereafter, the Federal Rules of Civil Procedure  
17 and the Local Rules of this court will apply as to the timely filing of any opposition and reply  
18 briefs.

19 Dated: October 24, 2017

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

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