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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SANTANA PORTER,

 Plaintiff,

 v.

ALVARO C. TRAQUINA,

 Defendant.

No. 2:12-cv-2266 TLN DB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action under 42 U.S.C. § 1983. Plaintiff alleges defendant Dr. Traquina was deliberately indifferent to plaintiff’s serious medical needs with respect to surgery Dr. Traquina performed on plaintiff’s foot. Plaintiff has requested a six-month extension of time to file an opposition to defendant’s motion for summary judgment filed December 16, 2016. Plaintiff states that he is attending a six to nine-month program at California Health Care Facility (“CHCF”) and does not have access to either his legal property or a law library. (See ECF Nos. 50, 51.)

Because plaintiff is uncertain of the length of his stay at CHCF and, therefore, also uncertain when he will regain access to his legal property and a law library, the court finds the most appropriate course would be temporarily staying this case until plaintiff regains access to his legal property and a law library.

Accordingly, IT IS HEREBY RECOMMENDED that:


- 1. Plaintiff’s motions for an extension of time (ECF Nos. 51, 52) be denied;

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2. This case be stayed until plaintiff completes his program at CHCF and regains access to his legal property and a law library;
3. Defendant’s December 16, 2016 motion for summary judgment (ECF No. 47) be denied without prejudice to its renewal when the stay is lifted and the case re-opened;
4. Plaintiff be ordered to inform the court when he completes his program at CHCF and regains access to his legal property and a law library; and
5. The Clerk of the Court be directed to administratively close this case.

These findings and recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. The document should be captioned “Objections to Magistrate Judge's Findings and Recommendations.” Any response to the objections shall be filed and served within seven days after service of the objections. The parties are advised that failure to file objections within the specified time may result in waiver of the right to appeal the district court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: April 12, 2017



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

DLB:9
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