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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES LEWIS DIXIE,
Plaintiff,
v.
TIM VIRGA, et al.,
Defendants.

No. 2:12-cv-2626 LKK DAD

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On December 12, 2013, plaintiff filed a Motion for Preliminary Injunction. (ECF No. 37.) Defendants did not file an opposition or statement of non-opposition to that motion. On February 21, 2014, the court issued an order directing defendants to show cause for why they did not file an opposition or statement of non-opposition to plaintiff’s motion within the twenty-one day period provided under Local Rule 230(l). (ECF No. 44.) Defendants have timely filed a response to the court’s order. (ECF No. 45.) In their response, defendants state that they did not file an opposition to the motion for preliminary injunction pursuant to Local Rule 230(l) because they believed that they were excused from doing so by a previous court order issued on February 6, 2013 directing service by the United States Marshall (ECF No. 16). Defendants specifically rely on the following language from that order:

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1 Unless otherwise ordered, all motions to dismiss, motions for
2 summary judgment, motions concerning discovery, motions
3 pursuant to Fed. R. Civ. P. 7, 11, 12, 15, 41, 55, 56, 59 and 60, and
4 E.D. Cal. R. 110, shall be briefed pursuant to L.R. 230(1). Failure
to timely oppose such a motion may be deemed a waiver of
opposition to the motion. *See L.R. 230(1). Opposition to all other
motions need be filed only as directed by the court.*

5 (ECF No. 16 at 3 (emphasis added).)

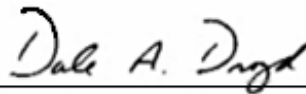
6 The court finds that defendants reasonably relied on this language in not filing an
7 opposition to plaintiff's motion for a preliminary injunction within the time set out in Local Rule
8 230(1). Accordingly, good cause appearing, the court's order to show cause (ECF No. 44) is
9 discharged. Pursuant to its February 6, 2013 order, the court directs defendants to file an
10 opposition to plaintiff's Motion for Preliminary Injunction (ECF No. 37) within twenty-one days
11 of this order. Plaintiff shall file a reply, if any, within seven days after defendants file their
12 opposition.

13 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 14 1. The court's February 21, 2014 order to show cause (ECF No. 44) is DISCHARGED.
- 15 2. Within twenty-one days of this order, defendants shall file an opposition to plaintiff's
16 Motion for Preliminary Injunction (ECF No. 37).

- 17 1. Plaintiff may file a reply, if any, within seven days after defendants file their
18 opposition.

19 Dated: March 4, 2014

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21 _____
DALE A. DROZD
22 UNITED STATES MAGISTRATE JUDGE

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