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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BERNARDOS GRAY, JR.,
Plaintiff,
v.
T. VIRGA, et al.,
Defendants.

No. 2:12-cv-3006 KJM AC P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Currently before the court is plaintiff’s motion for reconsideration, which the court construes as a motion for additional time to file a supplemental opposition to defendants’ motion for summary judgment. ECF No. 88.

Due to the court’s caseload burdens, plaintiff’s motions to compel were not ruled on until after defendants filed their motion for summary judgment. ECF No. 73. Because defendants were required to supplement their discovery responses, plaintiff was given an opportunity to file a supplemental opposition to the summary-judgment motion. *Id.* at 13. Plaintiff then filed a motion for extension of time to submit his supplemental opposition which indicated that defendants had not complied with the order on the motion to compel. ECF No. 82. The deadline to file a supplemental opposition was vacated and plaintiff was given an opportunity to file a motion to enforce the discovery order. ECF No. 81. Plaintiff filed another motion to compel.

1 ECF No. 82. The motion was denied and plaintiff was ordered to file his supplemental opposition
2 within twenty-one days. ECF No. 85. Plaintiff then filed a motion for an unspecified extension
3 of time to file his supplemental opposition (ECF No. 86) and he was granted an additional
4 twenty-one days (ECF No. 87). Due to exigencies in the court's calendar, plaintiff was advised
5 that no further extensions would be granted. Id.

6 In his currently pending motion for additional time, plaintiff alleges that he is not being
7 given access to his legal documents, despite having submitted requests, and that he will soon be
8 transferred to another prison because of his impending release from custody on August 31, 2015.
9 ECF No. 88. In light of plaintiff's upcoming release from custody, which will likely result in an
10 interruption in plaintiff's ability to access his legal property, and the current status of the motion
11 for summary judgment, defendants' motion for summary judgment will be vacated and
12 defendants will be given an opportunity to re-file the motion.

13 Plaintiff will be required to notify the court of his new address upon his release from
14 custody, at which point defendants may re-file their motion for summary judgment. This
15 procedure will allow plaintiff to file a single, comprehensive response to the motion for summary
16 judgment after he is released from custody and is in possession of all his legal property without
17 restriction. The filing of a single opposition will also allow the court to more efficiently address
18 the motion for summary judgment.

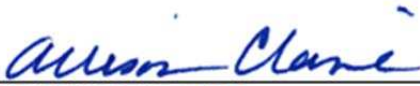
19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. Defendants' motion for summary judgment (ECF No. 64) is vacated.
- 21 2. Within thirty days of his release from custody, plaintiff shall notify the court of his new
22 address and either pay the filing fee in full or submit a non-prisoner application to proceed in
23 forma pauperis. Failure to comply with this order will result in a recommendation that this action
24 be dismissed without prejudice.
- 25 3. Upon the filing of plaintiff's notice of change of address, defendants shall have thirty
26 days to re-notice, re-file, and re-serve their motion for summary judgment. Defendants may
27 simply re-file their original summary-judgment motion with an updated certificate of service.
28 Although plaintiff will no longer be incarcerated, briefing on the motion for summary judgment

1 shall follow the schedule set forth in Local Rule 230(1) and the motion will be submitted on the
2 papers without oral argument.

3 4. Plaintiff's motion for extension (ECF No. 88) is denied as moot.

4 DATED: August 25, 2015

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6 ALLISON CLAIRE
7 UNITED STATES MAGISTRATE JUDGE
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