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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY E. WALKER,
Plaintiff,
v.
MOHADJER, et al.,
Defendants.

No. 2:13-cv-1193 WBS AC P

ORDER

Plaintiff is proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On July 14, 2015 defendants filed a motion for summary judgment on the grounds that plaintiff failed to exhaust administrative remedies prior to filing suit. ECF No. 99. Plaintiff filed a motion for an extension of time to oppose defendants’ summary judgment motion. ECF No. 104. In his motion, plaintiff informed the court of his ongoing litigation in several other cases and referenced an upcoming hearing on December 18, 2015. *Id.* at 1-2. Plaintiff also filed a separate request for a court order directing his legal materials to be forwarded from R.J. Donovan Correctional Facility (“RJD”) to his new location at San Francisco County Jail. ECF No. 103. On October 23, 2015, the court granted plaintiff’s motion for an extension of time to oppose defendants’ motion for summary judgment.¹ ECF No. 105. On December 4, 2015, the court issued an order directing

¹ In the same order, the court denied plaintiff’s request for an extension of the discovery (continued...)

1 defendants to update the court regarding the status of plaintiff's legal property at RJD. ECF No.
2 106. Defendants were also directed to advise the court whether plaintiff's transfer to San
3 Francisco County Jail is temporary and whether plaintiff is expected to return to CDCR custody.
4 The court noted that plaintiff would be given additional time to oppose defendants' summary
5 judgment motion once the issue of access to his legal property is resolved.

6 On December 14, 2015, defendants filed a notice with the court indicating that plaintiff
7 paroled from CDCR custody on June 11, 2015 and was transferred to San Francisco County Jail
8 where he is undergoing processing for transfer to the Sexually Violent Predator program under
9 the California Department of State Hospitals. ECF No. 109, 109-1. Plaintiff is not expected to
10 return to CDCR custody. Id. Defendants further advised the court that two boxes of materials
11 belonging to plaintiff were located at RJD, one of which contained legal documents. Id. at 2.
12 Those materials were shipped to plaintiff at San Francisco County Jail on December 11, 2015. Id.
13 This represents a six-month delay in the forwarding of plaintiff's legal property, which the court
14 finds problematic.

15 In light of the information provided by defendants, it appears that the December 18, 2015
16 hearing plaintiff referred to in his request for an extension of time is a civil commitment hearing
17 related to the Sexually Violent Predator program. See ECF No. 104 at 2. As this hearing is
18 scheduled to take place in a few days, it is not clear how much longer plaintiff will remain at San
19 Francisco County Jail or when plaintiff will be able to access his legal materials once they arrive
20 at San Francisco County Jail. In consideration of the above circumstances, IT IS HEREBY
21 ORDERED that:

- 22 1. Plaintiff must notify the court within seven (7) days of obtaining access to his legal
23 materials;
- 24 2. Defendants' motion for summary judgment (ECF No. 99) is VACATED without
25 prejudice to its renewal once plaintiff notifies the court, and defendants' counsel
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27 deadline, ECF No. 102, as moot because discovery had already been stayed pending resolution of
28 defendants' motion for summary judgment. ECF No. 105.

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confirms, that he has been reunited with his legal property;

3. Upon re-notice of the motion for summary judgment, plaintiff will have thirty (30) days to file his opposition. Failure to file a timely opposition will be deemed a statement of non-opposition and result in a recommendation of dismissal of this action.

DATED: December 16, 2015



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE