

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM D. FARLEY,  
Plaintiff,  
v.  
T. VIRGA, et al.,  
Defendants.

No. 2: 13-cv-1751 WBS KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for law library access (ECF No. 79) and motion for legal property and a 180 day extension of time to respond to defendants’ motion to dismiss. (ECF No. 82.) For the reasons stated herein, these motions are denied.

The following background is relevant to plaintiff’s pending motions.

On May 7, 2014, defendants filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (ECF No. 42.) On May 19, 2014, and May 27, 2014, plaintiff filed motions for extension of time to respond to the motion to dismiss. (ECF Nos. 46, 49.) At that time, plaintiff was housed at California State Prison-Corcoran (“Corcoran”). On May 29, 2014, the undersigned granted plaintiff a sixty day extension of time to file his opposition to defendants’ motion to dismiss. (ECF No. 53.)

///

1           On June 10, 2014, plaintiff filed a third motion for extension of time to file an opposition  
2 to defendants' motion to dismiss. (ECF No. 57.)

3           On July 17, 2014, plaintiff filed a notice of change address indicating that he had been  
4 transferred to the California Health Care Facility in Stockton. (ECF No. 62.) On July 17, 2014,  
5 plaintiff filed his fourth motion for extension of time to file his opposition to defendants' motion  
6 to dismiss. (ECF No. 63.) In this motion, plaintiff requested a sixty day extension. (Id.) On July  
7 29, 2014, plaintiff filed his fifth motion for extension of time to file his opposition to defendants'  
8 motion to dismiss. (ECF No. 68.) In this motion, plaintiff requested an extension of sixty days.  
9 (Id.)

10           On August 5, 2014, the undersigned granted plaintiff an extension of sixty days to file his  
11 opposition to defendants' motion to dismiss. (ECF No. 69.)

12           On August 8, 2014, plaintiff filed a packet of exhibits. (ECF No. 70.) Based on his later  
13 pleadings, it appears that plaintiff did not intend this pleading to be his opposition.

14           On September 3, 2014, plaintiff filed his sixth motion for extension of time to file his  
15 opposition to defendants' motion to dismiss. (ECF No. 73.) Plaintiff also filed a notice of change  
16 of address indicating that he was transferred to the California Medical Facility ("CMF"). (Id.)

17           On September 16, 2014, the undersigned granted plaintiff a forty-five day extension of  
18 time to file his opposition to defendants' motion to dismiss. (ECF No. 74.) In this order, the  
19 undersigned stated that no further extensions of time would be granted. (Id.) The undersigned  
20 further stated that if plaintiff did not file an opposition within that time, defendants' motion would  
21 be taken under submission for decision. (Id.)

22           In his pending motion for law library access, plaintiff alleges that he is unable to use the  
23 law library or get access to his legal mail without court order. (ECF No. 79.) Plaintiff also  
24 requests an extension of 180 days to file his opposition to defendants' motion to dismiss. (Id.)  
25 Plaintiff's other pending motion makes similar claims and also requests a 180 day extension of  
26 time. (ECF No. 82.)

27           Plaintiff has been transferred two times since defendants filed their motion to dismiss,  
28 making it difficult for plaintiff to prepare his opposition. The undersigned has granted plaintiff

1 generous extensions of time, recognizing the difficulties plaintiff faced in preparing his  
2 opposition. However, defendants' motion has now been pending five months and plaintiff  
3 requests another 180 days to file his opposition. As reflected in the September 16, 2014 order,  
4 the resolution of defendants' motion cannot be further delayed. Granting plaintiff additional time  
5 to prepare his opposition would prejudice defendants as well as interfere with the court's ability  
6 to manage its caseload. For this reason, plaintiff's motions for extensions of time to file his  
7 opposition are denied. Defendants' motion to dismiss is deemed submitted for decision.


8 Because defendants' motion to dismiss is deemed submitted, plaintiff's requests for law  
9 library access and access to his legal property are denied without prejudice.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's motion for law library access (ECF No. 79) and motion for extension of time  
12 (ECF No. 82) are denied; and
- 13 2. Defendants' motion to dismiss (ECF No. 42) is submitted for decision.

14 Dated: November 13, 2014

15  
16 Far1751.eot(p)

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE