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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

H. DYMITRI HARASZEWSKI,  
Plaintiff,  
v.  
KNIPP, et al.,  
Defendants.

No. 2:13-cv-2494 JAM DB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with an action under 42 U.S.C. § 1983. Five motions are pending before the court: (1) plaintiff’s motion to amend the third amended complaint; (2) plaintiff’s motion to compel discovery responses; (3) defendants’ motion for summary judgment; (4) plaintiff’s request for library access; and (5) plaintiff’s motion for an extension of time. Because plaintiff’s recent motion for an extension of time indicates there may be some confusion about the status of each pending motion, this court attempts to clarify what is at issue.

1. Plaintiff’s Motion to Amend the Third Amended Complaint filed March 23.

Defendants filed an opposition on April 17. In an order filed on June 19, this court extended the time for plaintiff to file a reply brief to defendants’ opposition. That reply brief was due on July 15.

1           2. Plaintiff's Motion to Compel filed April 2.

2           Defendants filed an opposition on May 18. In the June 19 order, this court also gave  
3 plaintiff an extension of time to file a reply brief to his motion to compel. That reply brief was  
4 also due on July 15.

5           3. Defendants' Motion for Summary Judgment filed June 29.

6           Pursuant to this court's order filed April 2, 2018, plaintiff's opposition to the summary  
7 judgment motion is due twenty one days after service of the motion. (ECF No. 54 at 3 (citing  
8 Local Rule 230(1)).) In a document filed here on July 13 entitled "Pre-emptive Objection to  
9 Defendants' Expected Motion for Summary Judgment," plaintiff complains that any motion for  
10 summary judgment filed now is premature because plaintiff has outstanding motions to amend  
11 and to compel.

12           Defendants' motion for summary judgment was filed within the deadline set out by the  
13 Discovery and Scheduling Order, as continued by the court, and is proper. This court does intend  
14 to address plaintiff's outstanding motions before addressing the motion for summary judgment.  
15 Those motions will be considered submitted and ready for decision after plaintiff files reply briefs  
16 or the time for doing so has expired. Accordingly, this court will provide plaintiff an extension of  
17 time to file an opposition to defendants' motion for summary judgment.

18           4. Plaintiff's Request for Library Access filed July 13

19           Plaintiff complains there that he is unable to access the law library due to the COVID-19  
20 restrictions in place at Mule Creek State Prison ("MCSP"). This court recognizes that those  
21 restrictions have made it much more difficult for prisoners to research and prepare legal  
22 documents. However, the prisons, like much of the rest of California, including the federal  
23 courts, are dealing with a pandemic. At this time, this court will not second-guess MCSP's  
24 restrictions designed to keep its inmates and staff safe. This court will, however, liberally grant  
25 extensions of time that plaintiff requires to complete his work in this case.

26           5. Plaintiff's Motion for an Extension of Time filed July 16

27           Plaintiff indicates in this motion that he is seeking to extend the time to file an opposition  
28 to defendants' "motions." It is not clear if plaintiff is referring here to defendants' motion for

1 summary judgment or, as seems more likely, to defendants' oppositions to plaintiff's motions to  
2 amend and to compel. In any event, this court will grant plaintiff extensions of each of these  
3 deadlines.

4 Good cause appearing, IT IS HEREBY ORDERED that:

5 1. Plaintiff's motion for an extension of time is construed as a request to extend his time  
6 to file a reply brief to his motion to amend, a reply brief to his motion to compel, and an  
7 opposition to defendants' motion for summary judgment. That motion (ECF No. 124) is granted.

8 2. Within fifteen days of the filed date of this order, plaintiff shall file any reply briefs to  
9 his motions to amend and to compel.

10 3. The time period for plaintiff to file an opposition to the motion for summary judgment  
11 is continued. After the court resolves plaintiff's pending motions to amend and to compel, this  
12 court will set a deadline for the filing of plaintiff's opposition and defendants' reply.

13 Further, IT IS RECOMMENDED that plaintiff's motion for library access (ECF No. 122)  
14 be denied.

15 These findings and recommendations will be submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty days after  
17 being served with these findings and recommendations, either party may file written objections  
18 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
19 and Recommendations." The parties are advised that failure to file objections within the specified  
20 time may result in waiver of the right to appeal the district court's order. *Martinez v. Ylst*, 951  
21 F.2d 1153 (9th Cir. 1991).

22 Dated: July 20, 2020

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25 DEBORAH BARNES  
26 UNITED STATES MAGISTRATE JUDGE

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26 DB/prisoner-civil rights/hara2494.36.opp