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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EUGENIO PEJI,  
Plaintiff,  
v.  
CDCR, et al.,  
Defendants.

No. 2:13-cv-2647 KJM 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 defendants’ May 11, 2015 request for dismissal or, in the alternative, request for an extension of time to file a reply to plaintiff’s opposition. (ECF No. 40.) The background to this request is as follows.

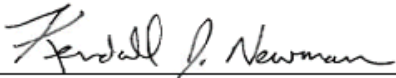
On April, 3, 2015, the undersigned ordered plaintiff to file his opposition to defendants’ summary judgment motion within thirty days. (ECF No. 38.) Pursuant to the mailbox rule, plaintiff filed his opposition on April 29, 2015. (ECF No. 39 at 46.) The court stamp file on plaintiff’s opposition is May 5, 2015. (Id. at 1.)

In the pending motion, defendants contend that plaintiff’s opposition, filed May 5, 2015, is one day late. Defendants request that this action be dismissed based on plaintiff’s failure to file a timely opposition. Assuming the court deems plaintiff’s opposition timely, defendants request an extension of time to file a reply.

1 Plaintiff's opposition is timely as it was filed, pursuant to the mailbox rule, within thirty  
2 days of April 3, 2015.

3 Accordingly, IT IS HEREBY ORDERED that defendants' motion to dismiss (ECF No.  
4 40) is denied; defendants' reply to plaintiff's opposition is due within seven days of the date of  
5 this order.

6 Dated: May 13, 2015

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9 KENDALL J. NEWMAN  
10 UNITED STATES MAGISTRATE JUDGE

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