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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARCELINO CLEMENTE,
Plaintiff,
v.
T. PARCIASEPE,
Defendant.

No. 2:14-cv-0611 MCE KJN P

ORDER

Plaintiff is a state prisoner proceeding without counsel. Plaintiff has recently suffered multiple mental health crises, resulting in his transfer to the mental health crisis bed at the California Medical Facility. Plaintiff has written the court to seek assistance in obtaining the return of his legal materials. (ECF No. 54.) It appears that plaintiff gave some of his legal materials pertaining to the instant case to another inmate, Alonzo Joseph, who was attempting to help plaintiff file his opposition to the pending motion for summary judgment. At the time plaintiff wrote his request, he was housed in administrative segregation and did not have access to Mr. Joseph or to plaintiff's property, which plaintiff claims is still housed at receiving and release.

Because the court cannot rule on defendant's motion for summary judgment until plaintiff has an opportunity to file his opposition, the court asks Litigation Coordinator Giovacchini, or other litigation coordinator at Mule Creek State Prison, to assist the court in having Mr. Joseph

1 return plaintiff's legal materials to plaintiff, as well as to ensure that plaintiff has access to his
2 legal materials so that he can file an opposition to the pending motion. Litigation Coordinator
3 Giovacchini was previously contacted by counsel for defendant in an effort to ascertain the earlier
4 whereabouts of plaintiff's legal materials. (ECF No. 46.)

5 Plaintiff renews his motion for appointment of counsel.¹ For the reasons stated in the May
6 22, 2015 order, plaintiff's request is denied.

7 Also, plaintiff has filed motions for extension of time to file a response to the motion for
8 summary judgment.² In his July 9, 2015 filing, plaintiff reports that he has now been returned to
9 Mule Creek State Prison from the crisis bed, and that his opposition to the motion for summary
10 judgment is now in the hands of the prison's Investigative Service Unit. Good cause appearing,
11 plaintiff's motion is granted.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. Plaintiff's June 17, 2015 motion (ECF 54) is partially granted:

14 a. Litigation Coordinator Giovacchini, or other litigation coordinator at Mule
15 Creek State Prison, is requested to, within fourteen from the date of this order, file with the court,
16 and serve on plaintiff, a written statement identifying the location of plaintiff's legal materials,
17 and plaintiff's access thereto, and addressing whether plaintiff's legal materials that were in the
18 possession of inmate Alonzo Joseph, CDCR #K62045, or now in the hands of the Investigative
19 Service Unit, have been returned to plaintiff.

20 b. The Clerk of Court is directed to serve a copy of this order on the Litigation
21 Coordinator for Mule Creek State Prison.


22 ¹ Plaintiff also states that he believes Mule Creek State Prison is trying to get him transferred,
23 and asks the court to order Mule Creek State Prison not to transfer plaintiff until this case is
24 resolved. (ECF No. 54 at 2.) Plaintiff's request was not properly filed as a motion and does not
25 address all of the elements required to show that injunctive relief is warranted. See Winter v.
26 Natural Resources Defense Council, 555 U.S. 7, 20 (2008). Moreover, given plaintiff's recent
transfers for urgent mental health care, it is unclear whether such relief is appropriate. Plaintiff's
request is denied without prejudice to its proper renewal.

27 ² In his June 18, 2015 request, plaintiff states he was to be discharged from the crisis bed on June
28 8, 2015. The inmate locator for the California Department of Corrections and Rehabilitation
confirms that plaintiff was housed at Mule Creek State Prison on July 8, 2015.

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2. Plaintiff's motion for appointment of counsel (ECF No. 54) is denied;
3. Plaintiff's motions for an extension of time (ECF No. 55, 56) are granted;
4. Plaintiff is granted forty-five days from the date of this order in which to file an opposition to the motion for summary judgment.

Dated: July 13, 2015


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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