28

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ALLEN HAMMLER, No. 2:14-cv-2073 MCE AC P 12 Plaintiff. 13 **ORDER** v. 14 C. DAVIS, 15 Defendant. 16 17 Plaintiff is a state prisoner at High Desert State Prison (HDSP), proceeding pro se and in 18 forma pauperis with this civil rights action commenced September 8, 2014. By order filed 19 February 18, 2015, this court determined that service of process of plaintiff's First Amended 20 Complaint is appropriate for sole defendant C. Davis, HDSP Librarian, against whom plaintiff 21 alleges claims of retaliation and deliberate indifference. Plaintiff was directed to submit, within 22 thirty days, the appropriate service documents. See ECF No. 17. 23 On March 25, 2015, plaintiff filed two matters: (1) a request for extension of time to 24 submit the service information, on the ground that plaintiff was recently moved to the 25 Administrative Segregation Unit (ASU) and does not have access to his legal materials, ECF No. 26 20; and (2) a motion for court order that provides the following: (a) direct HDSP to retain 27 plaintiff in ASU "single celled, alone;" (b) provide plaintiff access to his legal materials;

(c) provide plaintiff access to copying services and to the mail; and (d) "do not hold [plaintiff] in

ASU any longer than is necessary for cause of retaliation for actions taken against [correctional staff]" (sic), ECF No. 19 at 1.

For good cause shown, plaintiff's request for an extension of time will be granted.

The second matter requires further inquiry. Significantly, this is plaintiff's third request for preliminary injunctive relief; both prior requests were denied, in part because plaintiff did not allege a threat of imminent injury. See ECF Nos. 8 and 15, addressed by the court at ECF Nos. 9, 17-8. However, plaintiff now alleges that he was placed in the ASU after a March 16, 2015 fight with another inmate who works in HDSP's "Yard Crew," after several Yard Crew members chased and surrounded plaintiff. Plaintiff alleges that this group of inmates "functions as a prison gang," largely at the behest of correctional staff who, in this case, allegedly identified plaintiff as an appropriate target due to plaintiff's litigation activities. Plaintiff's motion names several correctional officers who allegedly instigated the March 16, 2015 incident, which resulted in plaintiff's placement in the ASU but in no repercussions for the Yard Crew inmates. ECF No. 19. Additionally, in his declaration in support of his request for extension of time, plaintiff states that he has been denied medical care since being housed in the ASU. Plaintiff states in part, ECF No. 20 at 2 (sic):

I am at this time injured and am being refused proper Medical Aide, of which I fear is in an endeavor to avoid more serious internal injuries being documented. I've informed staff that my ribs are in real pain and it hurts to laugh or move, signs of cracked ribs or broken and have not been x-rayed. [D]uring the altercation [I] had an inmate slamb me to the ground and have cuts all down the side of me, from shodler to elbows, and have not even had them cleaned.

The Office of the Attorney General will be directed to investigate plaintiff's allegations concerning his physical and medical condition, his current housing, and his alleged denial of access to his legal materials. Because defendant has not yet been served process in this case, this order will be directed to a Supervising Deputy Attorney General.

Good cause appearing, IT IS HEREBY ORDERED that:

1. Plaintiff's March 25, 2015 motion for extension of time, ECF No. 20, is granted; plaintiff is granted thirty (30) days from the filing date of this order in which to submit the documents necessary for service of process on defendant Davis.

1	2. The Office of the Calif
2	authorities forthwith, to investiga
3	medical condition; the dates and
4	through the date of inquiry; plain
5	imposed on such access beginnin
6	current housing placement, include
7	anticipated housing moves.
8	3. Because defendant has
9	directed to fax a copy of this orde
10	Supervising Deputy Attorney Ge
11	4. Ms. Anderson or her d
12	ten (10) days after the filing date
13	5. The Clerk of Court is a
14	Coordinator.
15	6. The court will rule on
16	the Attorney's General status rep
17	SO ORDERED.
18	DATED: April 3, 2015
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

- 2. The Office of the California Attorney General is directed to contact HDSP prison authorities forthwith, to investigate and ascertain the following: plaintiff's current physical and medical condition; the dates and nature of plaintiff's medical care beginning March 15, 2015 through the date of inquiry; plaintiff's current access to legal materials, including any limitations imposed on such access beginning March 15, 2015 through the date of inquiry; and plaintiff's current housing placement, including whether he is celled alone, and any security concerns or anticipated housing moves.
- 3. Because defendant has not yet been served process in this case, the Clerk of Court is directed to fax a copy of this order to the Office of the California Attorney General, Attention: Supervising Deputy Attorney General Monica Anderson.
- 4. Ms. Anderson or her designee shall file and serve a status report with the court within ten (10) days after the filing date of this order.
- 5. The Clerk of Court is also directed to fax a copy of this order to the HDSP Litigation Coordinator.
- 6. The court will rule on plaintiff's motion for court order, ECF No. 19, after review of the Attorney's General status report.

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE