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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD LEE CANADA,  
Plaintiff,  
v.  
HAMKAR,  
Defendant.

No. 2:14-cv-2990 WBS KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, with an action brought under 42 U.S.C. § 1983. This action proceeds on plaintiff’s Eighth Amendment claim alleging that while he was housed at California State Prison, Sacramento (“CSP-Sacramento) in 2014, Dr. Hamkar was deliberately indifferent to plaintiff’s serious medical needs, by, *inter alia*, denying plaintiff effective medication for chronic pain despite his knowledge of the impairments that plaintiff would suffer in the absence of the required medication. (ECF No. 5 at 2.) On July 13, 2017, plaintiff filed a document styled, “Declaration in Opposition to Defendant’s Motion for Summary Judgment,” in which he made multiple requests, including a request to voluntarily dismiss this action.

On July 17, 2017, the court acknowledged plaintiff’s allegations concerning death threats he allegedly received while housed at Kern Valley State Prison, and provided information on how he could proceed with such claims in the Fresno Division of this court. (ECF No. 58 at 2 n.1.) In


1 light of those allegations, it was unclear how plaintiff wished to proceed; thus, the court directed  
2 plaintiff to file a clarification as to whether he wished to have the stay lifted, and to proceed on  
3 the defendants' motion for summary judgment, or whether he wished to voluntarily dismiss the  
4 action as he had requested. However, on July 20, 2017, plaintiff filed a notice that he was again  
5 being transferred. On August 14, 2017, plaintiff confirmed that he was transferred to California  
6 Men's Colony in San Luis Obispo, California. On August 23, 2017, plaintiff was granted an  
7 extension of time in which to respond to the July 17, 2017 order. (ECF No. 61.)

8 Plaintiff has now filed his response. In addition to reciting the history of this action, he  
9 reiterates the alleged death threats he received at Kern Valley State Prison, and confirmed that he  
10 wishes to have the stay of this action lifted, and to voluntarily dismiss this action with prejudice  
11 due to the alleged death threats.<sup>1</sup>

12 In the instant action, plaintiff has been provided multiple opportunities to proceed, but it  
13 appears that, despite his recent transfer away from Kern Valley State Prison, plaintiff wants to  
14 voluntarily dismiss this action.

15 Accordingly, IT IS HEREBY ORDERED that defendant notify this court, within seven  
16 days, whether he has any objection to the dismissal of this action with prejudice. Should  
17 defendant fail to respond, plaintiff's request will be granted pursuant to Fed. R. Civ. P. 41(a)(2).

18 Dated: September 25, 2017

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21 KENDALL J. NEWMAN  
22 UNITED STATES MAGISTRATE JUDGE

23 /cana2990.59a

24 <sup>1</sup> Plaintiff is pursuing a civil rights action against defendant Niebert, Correctional Sergeant, one  
25 of the alleged perpetrators at Kern Valley State Prison. Canada v. Niebert, No. 2:17-cv- 0873  
26 BAM (E.D. Cal, Fresno Div.), which remains pending. In another case before the undersigned,  
27 plaintiff declares that the only case from "CSP-Sacramento" he is continuing is Canada v. Lewis,  
28 No. 2:17-cv-0313 EFB, stating: "The other cases from CSP-Sacramento the court clerk can  
dismiss, I am having problem staying focus[ed] and concentrating." Canada v. Macomber, No.  
2:17-cv-0070 KJN (E.D. Cal.) (ECF No. 27 at 3.) Plaintiff was given an additional thirty days to  
file an amended complaint or otherwise file a notice of voluntary dismissal. Id. (ECF No. 28.)