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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BINH C. TRAN,  
Plaintiff,  
v.  
JOKSCH,  
Defendant.

No. 2:15-cv-0200 MCE DB P

FINDINGS AND RECOMMENDATIONS

Plaintiff, is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion to stay this action pending his transfer to another institution.

The United States Supreme Court has clearly indicated that “the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” Landis v. North American Co., 299 U.S. 248, 254–55 (1936). In this regard, “the proponent of the stay bears the burden of establishing its need.” Clinton v. Jones, 520 U.S. 681, 706 (1997).


Plaintiff has failed to show why a stay of these proceedings is necessary. Though plaintiff expresses concern about missing court orders and motions that may result in the dismissal of this action, the record reveals no such prejudice. No dispositive motions have yet been filed in this

1 case, and the single court order that was returned as undeliverable was re-served on plaintiff  
2 following receipt of his notice of change of address.

3 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's motion for stay (ECF  
4 No. 27) be denied.

5 These findings and recommendations will be submitted to the United States District Judge  
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
7 after being served with these findings and recommendations, any party may file written  
8 objections with the court and serve a copy on all parties. The document should be captioned  
9 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
10 objections shall be filed and served within seven days after service of the objections. The parties  
11 are advised that failure to file objections within the specified time may result in waiver of the  
12 right to appeal the district court's order. Martinez v. Ylst, 951 F.2d 1153, 1157 (9th Cir. 1991).

13 Dated: October 31, 2017

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16 DEBORAH BARNES  
17 UNITED STATES MAGISTRATE JUDGE  
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20 DB/Inbox/Substantive/tran0200.stay.fr  
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