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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DALE JARDINE,

Plaintiff,

v.

DR. JACK ST. CLAIR,

Defendant.

No. 2:15-cv-1749 MCE AC P

ORDER

Plaintiff, a former state prisoner proceeding pro se and in forma pauperis with this civil rights action, again seeks extended time and appointment of counsel. ECF No. 59. This case is currently scheduled for hearing December 12, 2018, on defendant’s motion for summary judgment. For the reasons that follow, plaintiff’s requests are denied.

The court has provided plaintiff with numerous extensions of time in this case. For example, plaintiff’s deposition was postponed for more than fifteen months in response to plaintiff’s numerous requests for extended time.¹ As recently recounted by the court in denying plaintiff’s prior request for appointment of counsel, ECF No. 54 at 2:

With the cooperation of defense counsel and leniency of the court, plaintiff has been permitted to pursue this action at his own pace,

¹ See ECF No. 35-1 at 14 (deposition initially noticed for February 28, 2017); ECF No. 49 at 2 (deposition scheduled for June 6, 2018); ECF No. 50 at 2 (designating June 15, 2018 as the last date to conduct plaintiff’s deposition).

1 with numerous extensions of time due to his medical conditions and
2 other special circumstances. Throughout this process, plaintiff has
3 ably articulated and pursued his claims without an attorney, and to
4 advocate for himself on an as needed basis. Although plaintiff's
5 likelihood of success on the merits of his claims remains unclear, he
6 is no longer incarcerated and therefore able to draw on community
resources (such as free county law libraries) to prepare his opposition
to the pending motion. For these reasons, plaintiff's request for
appointment of counsel will be denied without prejudice. Should this
case proceed to trial, plaintiff may renew his request.

7 Thereafter, when plaintiff failed to file a timely opposition to defendant's motion for
8 summary judgment, previously scheduled for hearing on November 14, 2018, the court, sua
9 sponte, extended both the date for hearing and the deadline for plaintiff's opposition. See ECF
10 No. 58. The court informed plaintiff, id. at 1-2 (emphasis added):

11 This order provides plaintiff one final opportunity to respond to
12 defendant's motion and informs plaintiff that failure to so respond
13 will result in the undersigned's recommendation that this action be
14 dismissed. . . . **No further extensions of time will be granted.** [¶]
Should plaintiff fail to timely file and serve an opposition to
defendant's motion, the undersigned will recommend that this action
be dismissed without prejudice pursuant to Federal Rule of Civil
Procedure 41(b), for failure to prosecute.

15 Plaintiff again avers that significant health challenges prevent him from proceeding in this
16 action in a timely manner and without appointed counsel. ECF No. 59. No further leniency is
17 warranted in this case. Plaintiff is not unique as a pro se plaintiff with personal challenges, and
18 all pro se litigants are obliged to adhere to the same rules and obligations as represented parties.²

19 For these reasons, and for the numerous reasons previously stated by this court, plaintiff's
20 requests for extended time and for appointment of counsel will be denied. Plaintiff may direct his
21 general request for "papers to[] respond to [defendant's] motion," ECF No. 59 at 1, to defense
22 counsel as a request for courtesy copies of specifically identified documents. Plaintiff may also
23 request copies from the Clerk of Court, which will require payment; plaintiff is provided a
24 courtesy copy of the docket for reference. Finally, in response to plaintiff's inquiry concerning
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26 ² As provided in pertinent part by Local Rule 183(a): "Any individual representing himself or
27 herself without an attorney is bound by the Federal Rules of Civil or Criminal Procedure, these
28 Rules, and all other applicable law. All obligations placed on "counsel" by these Rules apply to
individuals appearing in propria persona. Failure to comply therewith may be ground for
dismissal, judgment by default, or any other sanction appropriate under these Rules."

1 the rule he needs to reference in responding to defendant's motion, the court will direct the Clerk
2 of Court to send plaintiff a copy of Local Rule 260 (which reflects the requirements of Fed. R.
3 Civ. P. 56).

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Plaintiff's request for extended time, ECF No. 59, is denied.

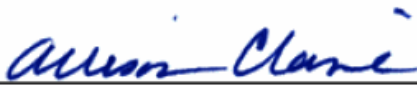
6 2. Plaintiffs request for appointment of counsel, ECF No. 59, is denied without prejudice
7 for the reasons previously stated by the court (see ECF No. 54).

8 3. The Clerk of Court is directed to send plaintiff, together with a copy of this order:

9 (a) a copy of the docket in this case, and (b) a copy of Local Rule 260.

10 4. Assuming plaintiff's timely briefing in response to defendant's motion for summary
11 judgment, plaintiff may request to appear telephonically at the hearing scheduled for December
12 12, 2018, by contacting the undersigned's Courtroom Deputy, Valerie Callen, at 916-930-4199,
13 no later than Monday, December 10, 2018.

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15 DATED: November 9, 2018


16 ALLISON CLAIRE
17 UNITED STATES MAGISTRATE JUDGE
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