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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANNY GEROME YOUNG,  
Plaintiff,  
v.  
RODRIGUEZ, et al.,  
Defendants.

No. 2:15-cv-2604 GEB CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Currently before the court is defendants’ fully briefed motion for summary judgment. (ECF No. 29.) For the reasons set forth below, the court will vacate the motion for summary judgment and briefly re-open discovery.

In screening the first amended complaint, the court simply held that it stated a cognizable claim and cited to the screening of the original complaint. (ECF No. 10.) The screening order for the original complaint stated that plaintiff had “implicate[d] the free exercise clause.” (ECF No. 5 at 4.) It appears that defendants have accordingly treated plaintiff’s first amended complaint as containing only a First Amendment claim. (See ECF No. 29.) However, the first amended complaint also clearly implicated the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the Fourteenth Amendment because plaintiff explicitly invoked RLUIPA and stated that he was treated differently from inmates of other religions who are permitted to wear

1 their religious head coverings without special permission. (ECF No. 9 at 3, 6-9.) Neither of these  
2 claims is addressed in defendants' motion for summary judgment, which appears to seek  
3 dismissal of the entire case. (ECF No. 29.) Because the screening order did not make clear that  
4 plaintiff also had cognizable equal protection and RLUIPA<sup>1</sup> claims, the court will vacate the  
5 pending motion for summary judgment and briefly re-open discovery to allow additional  
6 discovery related to those claims. Upon the close of discovery, the parties will have the  
7 opportunity to file dispositive motions.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. Defendants' motion for summary judgment (ECF No. 29) is vacated.

10 2. Discovery is re-opened and the parties may conduct discovery until **April 17, 2018**.

11 Any motions necessary to compel discovery shall be filed by **April 17, 2018**. All requests for  
12 discovery pursuant to Federal Rules of Civil Procedure 31 (deposition by written question), 33  
13 (interrogatories), 34 (production of documents), or 36 (admissions) shall be served no later than  
14 **March 2, 2018**. Responses to written discovery requests shall be due **thirty** days after the  
15 request is served.

16 3. All pretrial motions, except motions to compel discovery, shall be filed on or before  
17 **August 24, 2018**.

18 Dated: February 14, 2018



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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20 13:youn2604.vacate

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22 <sup>1</sup> The court notes that plaintiff's RLUIPA claim is likely moot since he has been transferred to  
23 another prison and the complaint appears to challenge how the policy was enforced at California  
24 Health Care Facility rather than the policy itself. See Jones v. Williams, 791 F.3d 1023, 1031  
25 (9th Cir. 2015) (RLUIPA does not authorize monetary damages against state officials in either  
26 their individual or official capacities (citing Sossamon v. Texas, 563 U.S. 277, 284-85 (2011);  
27 Wood v. Yordy, 753 F.3d 899, 903-04 (9th Cir. 2014)); Nelson v. Heiss, 271 F.3d 891, 897 (9th  
28 Cir. 2001) (“[W]hen a prisoner is moved from a prison, his action will usually become moot as to  
conditions at that particular facility” (citing Dilley v. Gunn, 64 F.3d 1365, 1368-69 (9th Cir.  
1995))); Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991) (claims for injunctive relief related  
to conditions of confinement were moot where prisoner was transferred to another facility and  
“demonstrated no reasonable expectation of returning to [the original facility].” (citing Darring v.  
Kincheloe, 783 F.2d 874, 876 (9th Cir. 1986))).