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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT BENYAMINI,  
Plaintiff,  
v.  
TERRY, et al.,  
Defendants.

No. 2:15-cv-2615-TLN-EFB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a former state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He requests an “emerg[e]ncy continuance of said matters until[ ] further notice,” which the court construes as a motion to stay. ECF No. 39. As discussed below, it is recommended that the motion be denied.

“The district court has broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (citing *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)). “The proponent of a stay bears the burden of establishing its need.” *Id.* at 708. Here, plaintiff argues that a stay is necessary because he is now homeless and a restraining order prevents him from accessing his mail and evidence. He claims he “can’t litigate from the streets” and is attempting to “b[u]y [ ] time [to] get on even ground . . . against a prejudicial court and over litigating Attorney Generals.” ECF No. 39 at 4.

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1           On September 21, 2017, the court recommended that defendants’ motion to dismiss this  
2 action as barred by the statute of limitations be granted and gave the parties fourteen days to file  
3 any objections. ECF No. 35. On October 24, 2017, the court granted plaintiff a thirty day  
4 extension of time to file objections. ECF No. 38. The allegations in his current request might  
5 support a further extension of time but do not warrant the sort of open ended extension sought  
6 here. Plaintiff will be granted another sixty day extension of time to file any objections. But a  
7 stay in this case, which would be open-ended insofar as plaintiff does not specify exactly what he  
8 needs in order to file objections or how much time he will need to accomplish the same, is not  
9 appropriate. *See Dependable Highway Express, Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066  
10 (9th Cir. 2007) (“Generally, stays should not be indefinite in nature.”). Absent at least some  
11 approximation of the length of the requested stay, the court finds that a discrete extension will  
12 better serve the orderly course of justice. The task for which plaintiff seeks more time, it to file  
13 objections to the findings and recommendations entered in September. The purpose of the  
14 objection period is not to brief the merits of defendants’ motion in the first instance. In any  
15 objections, plaintiff need only identify the portions of the findings and recommendations to which  
16 he objects, and explain the reasons for his objections. As a one-time courtesy, the court will  
17 direct the Clerk to re-serve plaintiff with a copy of the September 21, 2017 findings and  
18 recommendations which plaintiff may refer to in identifying which portions he objects.

19           Based on the foregoing, it is ORDERED that plaintiff shall have another sixty days from  
20 the date of this order to file any objections to the September 21, 2017 findings and  
21 recommendations. It is FURTHER ORDERED that the Clerk shall re-serve plaintiff with a copy  
22 of the September 21, 2017 findings and recommendations (ECF No. 35).

23           Further, it is RECOMMENDED that plaintiff’s “emerg[e]ncy continuance of said matters  
24 until[ ] further notice,” construed as a motion to stay (ECF No. 39), be DENIED.

25           These findings and recommendations are submitted to the United States District Judge  
26 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
27 after being served with these findings and recommendations, any party may file written  
28 objections with the court and serve a copy on all parties. Such a document should be captioned

1 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
2 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
3 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

4 DATED: November 27, 2017.

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6 EDMUND F. BRENNAN  
7 UNITED STATES MAGISTRATE JUDGE  
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