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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GERALD SPENCE,

Plaintiff,

v.

G. KAUR, ET AL.

Defendants.

Case No. 2:16-cv-01828 KJN

~~PROPOSED~~ ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. In their preliminary response, defendants argue that plaintiff’s motion should be denied as premature or moot in light of plaintiff’s transfer to High Desert State Prison. Plaintiff was housed at North Kern State Prison (“NKSP”) at the time he claims he submitted a CDC 1074 form to Captain Chanelo at NKSP administration. Inasmuch as prisoners are often transferred, requiring plaintiff to renew his request every time he is transferred would render his circumstances “capable of repetition, yet evading review,” such that this court will not prematurely deny plaintiff’s motion, particularly before it is fully briefed.¹ Defendants’ request is denied.

¹ See Preiser v. Newkirk, 422 U.S. 395, 402 (1975); Feldman v. Bomar, 518 F.3d 637, 642 (9th Cir. 2008) (“The basic question in determining mootness is whether there is a present controversy as to which effective relief can be granted.”).

1 In the alternative, the court finds good cause to grant defendants' request for a fourteen-day
2 extension of time to respond to the court's December 18, 2020 order (ECF No. 120). However,
3 defendants are granted an extension of time to file one comprehensive response, not simply a
4 supplemental response, so that there is one complete response to the motion to correspond with
5 witnesses, and plaintiff is then able to file one reply to the response. Local Rule 230(1).

6 Accordingly, IT IS HEREBY ORDERED that:


7 1. Defendants' request to deny plaintiff's motion as premature or moot (ECF No. 121) is
8 denied without prejudice.

9 2. Defendants' motion for extension of time (ECF No. 121) is partially granted.

10 3. Defendants are granted fourteen days in which to file one response that complies with
11 this court's December 18, 2020 order. (ECF No. 120.) Plaintiff's reply shall be filed fourteen
12 days after receipt of defendants' response.

13 Dated: January 5, 2021

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE