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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN MOORE,
Plaintiff,
v.
G. TESLUK, et al.,
Defendants.

No. 2: 16-cv-2268 GEB KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Two matters are pending before the court.

Requests to Opt out of Post-Screening ADR Project

On January 26, 2017, the undersigned ordered service of defendants Fox, Nguyen, Tesluk and Win. (ECF No. 13).

On August 10, 2017, the undersigned referred this action to the Post-Screening ADR Project. (ECF No. 38.) On September 11, 2017, defendants Win and Fox filed a motion to opt out of the Post-Screening ADR Project. (ECF No. 43.) On September 12, 2017, defendant Tesluk, represented by separate counsel, filed a request to join the motion to opt out of the Post-Screening ADR Project. (ECF No. 45.) On September 12, 2017, defendant Nguyen, also represented by separate counsel, filed a notice regarding judge election for the Post-Screening ADR Project. (ECF No. 44.)

1 Good cause appearing, the requests to opt out of the Post-Screening ADR Project by
2 defendants Win, Fox and Tesluk are granted. Defendant Nguyen shall inform the court within
3 fourteen days whether she is interested in participating in a settlement conference with plaintiff at
4 this time, or whether she wishes to postpone the settlement conference to a date to be determined
5 at a later stage of these proceedings.

6 Plaintiff's Motion to Amend

7 On August 14, 2017, plaintiff filed a motion for leave to amend. (ECF No. 41.)
8 Plaintiff's motion was not, however, accompanied by a proposed amended complaint. As a
9 prisoner, plaintiff's pleadings are subject to evaluation by this court pursuant to the in-forma
10 pauperis statute. See 28 U.S.C. § 1915A. Because plaintiff did not submit a proposed amended
11 complaint, the court is unable to evaluate it. For this reason, the motion to amend is denied.

12 It also appears that plaintiff's motion to amend may be based on a misunderstanding. On
13 August 4, 2017, the court granted defendant Tesluk's motion to dismiss plaintiff's state law claim
14 made against him. (ECF No. 36.) The court also ordered defendant Tesluk to file a response to
15 plaintiff's Eighth Amendment claim within twenty days. (Id.) On August 10, 2017, defendant
16 Tesluk filed an answer addressing plaintiff's Eighth Amendment claim. (ECF No. 37.)

17 After reviewing the motion to amend, it appears that plaintiff may believe that the court
18 dismissed plaintiff's entire action against defendant Tesluk. As discussed above, the court
19 granted the motion to dismiss plaintiff's state law claim against defendant Tesluk. This action
20 proceeds on plaintiff's Eighth Amendment claim against defendant Tesluk.

21 Accordingly, IT IS HEREBY ORDERED that:

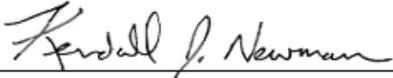
- 22 1. The motion to opt of the Post-Screening ADR Project by defendants Fox and Win
23 (ECF No. 43), and joined by defendant Tesluk (ECF No. 45), is granted;
- 24 2. Within fourteen days of the date of this order, defendant Nguyen shall inform the court
25 whether she is interested in participating in a settlement conference with plaintiff at this time, or
26 whether she wishes to postpone the settlement conference to a date to be determined at a later
27 stage of these proceedings;

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3. Plaintiff's motion to amend (ECF No. 41) is denied.

Dated: September 28, 2017


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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