

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL XAVIER BELL,

Plaintiff,

v.

MICHAEL MARTEL, et al.,

Defendants.

No. 2:17-cv-00063-MCE-CKD

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. On September 23, 2020 the court adopted the Findings and Recommendations issued by the undersigned and granted the summary judgment motion as to defendants Quinto, Brown and Spalding based on plaintiff’s failure to exhaust his administrative remedies. ECF No. 93. The summary judgment motion with respect to the remaining defendants was denied and the case was ordered to proceed against defendants Agapay, Gill, Go, Gatchalian, Simon, Urquidez, Espino-Acevedo, Wagner, and Richardson. ECF No. 93.

This court issued a further scheduling order on October 2, 2020 indicating that the law and motions deadline had passed and that discovery had closed. ECF No. 95. Defendants filed a motion to reconsider that order on October 8, 2020 correctly indicating that the court stayed all discovery and the scheduling deadlines in this case prior to issuing Findings and

1 Recommendations on the summary judgment motion due to difficulties arising from plaintiff's  
2 custody status and COVID-19. ECF No. 89. Therefore, the court will grant defendant's motion  
3 for reconsideration and vacate the court's order of October 2, 2020. However, the court will not  
4 issue an amended discovery and scheduling order at this time due to plaintiff's ongoing custody at  
5 the Los Angeles County Men's Central Jail. Rather, the court will direct plaintiff to file a status  
6 report within 14 days of his transfer to any CDCR institution following his re-sentencing in the  
7 Los Angeles County Superior Court.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Defendants' motion for reconsideration (ECF No. 96) is granted.
- 10 2. The court's scheduling order issued on October 2, 2020 (ECF No. 95) is hereby  
11 vacated. All deadlines referenced in this order are vacated.
- 12 3. Plaintiff is directed to file a status report within 14 days of his transfer to any CDCR  
13 institution following his re-sentencing in the Los Angeles County Superior Court.

14 Dated: October 15, 2020

15   
16 \_\_\_\_\_  
17 CAROLYN K. DELANEY  
18 UNITED STATES MAGISTRATE JUDGE  
19  
20  
21

22 12/bell0063.mfr.docx  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28