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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT TAYLOR,  
Plaintiff,  
v.  
WONG, et al.,  
Defendants.

No. 2: 17-cv-1758 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On August 3, 2018, defendants filed a summary judgment motion and a motion to stay. (ECF Nos. 25, 26.) Plaintiff did not file oppositions to these motions. Accordingly, on September 20, 2018, the undersigned ordered plaintiff to file his oppositions within thirty days. (ECF No. 29.) Plaintiff did not respond to the September 20, 2018 order. Accordingly, on November 6, 2018, the undersigned recommended that this action be dismissed. (ECF No. 32.)

On December 6, 2018, plaintiff filed a motion for an extension of time to file an opposition to defendants’ summary judgment motion. (ECF No. 33.) Plaintiff also requested that he be provided with a copy of defendants’ summary judgment motion. In this pleading, plaintiff alleged that he could not file a timely opposition due to numerous, recent transfers, lack of access to his legal property and failure to receive his legal mail in a timely manner.

1 On December 12, 2018, the undersigned vacated the November 6, 2018 findings and  
2 recommendations. (ECF No. 34.) The undersigned also directed defendants to re-serve plaintiff  
3 with the summary judgment motion and motion to stay. (Id.) The undersigned granted plaintiff  
4 forty-five days to file oppositions to these motions. (Id.)

5 On December 19, 2018, defendants filed proof of re-service of the motion for summary  
6 judgment and motion to stay. (ECF Nos. 35, 36.) These motions were re-served on plaintiff on  
7 December 14, 2018 at his address of record at R.J. Donovan Correctional Facility (“RJDCF”).  
8 (Id.)

9 Pursuant to the mailbox rule, on December 13, 2018, plaintiff filed a motion for extension  
10 of time to file his opposition to defendants’ motions. (ECF No. 37.) In this motion, plaintiff  
11 alleged that he required additional time to respond to defendants’ summary judgment motion  
12 because he did not have access to a copy machine. (Id.) In other words, plaintiff did not state  
13 that he did not have a copy of defendants’ motion. In this pleading, plaintiff also stated that he  
14 was transferred to California State Prison-Los Angeles. (Id.)

15 On January 4, 2019, the undersigned granted plaintiff a thirty days extension of time to  
16 file his oppositions to defendants’ motions. (ECF No. 38.)

17 Pursuant to the mailbox rule, on January 11, 2019, plaintiff filed the pending motion to  
18 compel. (ECF No. 40.) In this pleading, plaintiff alleges that he did not receive copies of  
19 defendants’ motions to stay and for summary judgment, as ordered by the court on December 12,  
20 2018. Plaintiff alleges that defendants failed to comply with the December 12, 2018 order.  
21 Plaintiff also requests that defendants be ordered to pay him costs for his time spent preparing the  
22 motion to compel.

23 Plaintiff’s failure to allege that he did not possess defendants’ motions in his December  
24 13, 2018 motion for extension of time suggests that plaintiff found his copy of defendants’  
25 motions in his legal property. In the pending motion to compel, plaintiff also does not directly  
26 state that he does not possess defendants’ motions. Instead, plaintiff argues that defendants did  
27 not comply with the December 12, 2018 order.

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1           Despite the undersigned's concerns regarding plaintiff's access to defendants' motions,  
2 defendants are directed to again re-serve plaintiff with these motions at his address of record at  
3 California State Prison-Los Angeles.


4           Accordingly, IT IS HEREBY ORDERED that:

5           1. Plaintiff's motion to compel (ECF No. 40) is denied;

6           2. Defendants shall re-serve plaintiff with the summary judgment motion and motion to  
7 stay within seven days of the date of this order; defendants shall file proof of re-service with the  
8 court;

9           3. Plaintiff is granted forty-five days from the date of this order to file oppositions to  
10 defendants' summary judgment motion and motion to stay; no extensions of time to file  
11 oppositions will be granted.

12 Dated: January 30, 2019

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15 KENDALL J. NEWMAN  
16 UNITED STATES MAGISTRATE JUDGE

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