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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONNY STEWARD,

 Plaintiff,

 v.

LYNCH, et al.,

 Defendants.

No. 2: 18-cv-1227 KJM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are plaintiff’s motions seeking return of his legal materials. (ECF Nos. 33 & 34.) On May 1, 2020, pursuant to the court’s briefing order, the Office of the Attorney General filed a response by special appearance explaining why plaintiff was temporarily deprived of his property, but stating that plaintiff received his property on April 28, 2020. (ECF No. 37 at 2.) Counsel provided a copy of the receipt reflecting plaintiff received six boxes of property on April 28, 2020. (ECF No. 37 at 5.)

On May 4, 2020, plaintiff’s request for extension of time addressed to the Court of Appeals for the Ninth Circuit was opened as a new habeas case. Howard v. Peiffer, No. 2:20-cv-909 AC (E.D. Cal.). Plaintiff’s request was prepared on April 28, 2020, and sought an extension of time to file a document in the Ninth Circuit, and was then handed to prison staff for mailing on April 30, 2020. It is unclear why plaintiff mailed the request to this court, rather than the Ninth


1 Circuit, but on May 11, 2020, the request was forwarded to the Ninth Circuit. Id. A copy of the
2 request was also docketed in this case because plaintiff noted his pending motions regarding his
3 missing property filed in this action. (ECF No. 38 at 3.) The reference to the pending motions
4 appears to be in the context of plaintiff explaining why he needs additional time to meet the
5 Circuit's deadline.

6 The record reflects that plaintiff signed for his legal materials on April 28, 2020, and
7 plaintiff has not filed a reply to the contrary. Good cause appearing, plaintiff's motions are
8 denied without prejudice as moot. But in light of the delay in the receipt of plaintiff's property,
9 he is granted an extension of time in which to file a second amended complaint.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's motions (ECF Nos. 33, 34) are denied without prejudice; and
- 12 2. Plaintiff is granted up to and including July 23, 2020, in which to file a second
13 amended complaint that complies with the March 23, 2020 order (ECF No. 31).

14 Dated: May 15, 2020

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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