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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AKIVA A. ISRAEL,
Plaintiff,
v.
RUBY CARTER, et al.,
Defendants.

No. 2: 21-cv-1267 JAM 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 motion for extension of time, motion to compel and motion for clarification. (ECF Nos. 48, 49, 50.)

Motion for Extension of Time (ECF No. 48)

Plaintiff requests a second extension of time to file objections to the March 24, 2022 findings and recommendations recommending that all claims raised in the second amended complaint, except for claims one and two against defendant Carter, be dismissed. (ECF No. 48.) Good cause appearing, plaintiff’s second motion for extension of time to file objections is granted.

Motion to Compel (ECF No. 49)

On May 11, 2022, the undersigned ordered defendant to file a response to plaintiff’s motion to postpone her deposition within seven days of the date of the order. (ECF No. 45.) On

1 May 18, 2022, defendant filed a timely response to plaintiff's motion to postpone her deposition.
2 (ECF No. 46.) On May 23, 2022, the undersigned denied plaintiff's motion to postpone her
3 deposition as moot because her deposition, originally scheduled for May 5, 2022, was
4 rescheduled to June 16, 2022. (ECF No. 47.)

5 In the pending motion to compel, plaintiff contends that defendant failed to respond to her
6 motion to postpone her deposition. (ECF No. 49 at 1.) As discussed above, on May 18, 2022,
7 defendant filed a timely response to her motion to postpone her deposition. (ECF No. 46.)
8 Accordingly, plaintiff's motion to compel defendant to respond to her motion to postpone her
9 deposition is denied.

10 In the motion to compel, plaintiff also claims that defense counsel objects to plaintiff's use
11 of a therapeutic ball during her deposition. (ECF No. 49 at 1.) Plaintiff alleges that she is entitled
12 to use the therapeutic ball during her deposition due to her disability. (Id.) Plaintiff attaches no
13 medical records to her motion to compel regarding her use of the therapeutic ball.

14 Based on the current record, plaintiff's request for an order allowing her to use her
15 therapeutic ball during her deposition is denied as unsupported.

16 Motion for Clarification (ECF No. 50)

17 Plaintiff requests clarification of the July 26, 2021 order screening her original complaint.
18 The July 26, 2021 order stated that plaintiff alleged that defendant Carter refused to provide
19 plaintiff with medication required to treat schizophrenia, including mirtazapine and hydroxyzine.
20 (ECF No. 4 at 3.) Footnote 2 of the July 26, 2021 order stated that hydroxyzine is used to treat
21 itching caused by allergies. (Id. at 3 n. 2.) In the pending request for clarification, plaintiff
22 alleges that she does not use hydroxyzine to treat itching. (ECF No. 50 at 1-2.) Plaintiff alleges
23 that she takes hydroxyzine to treat her mental health problems. (Id. at 2.)

24 To the extent plaintiff's request for clarification is a request for reconsideration of the July
25 26, 2021 order, this request is untimely. Local Rule 303(b) ("rulings by Magistrate Judges . . .
26 shall be final if no reconsideration thereof is sought from the Court within fourteen days . . . from
27 the date of service of the ruling on the parties.")


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1 In any event, on September 20, 2021, the undersigned ordered service of plaintiff's
2 amended complaint alleging that defendant Carter violated the Eighth Amendment by denying
3 plaintiff mirtazapine and hydroxyzine. (ECF No. 8.) For this reason, no clarification of the July
4 26, 2021 order is required. Plaintiff may clarify at a later stage of these proceedings, if
5 appropriate, the reason she was prescribed hydroxyzine. For these reasons, plaintiff's motion for
6 clarification is denied.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's motion for an extension of time (ECF No. 48) is granted; plaintiff is granted
9 thirty days from the date of this order to file objections to the March 24, 2022 findings
10 and recommendations; no further requests for extension of time will be granted;
- 11 2. Plaintiff's motion to compel (ECF No. 49) is denied; and
- 12 3. Plaintiff's motion for clarification (ECF No. 50) is denied.

13 Dated: June 8, 2022

14 
15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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