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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONRELL D. MURPHY,
Plaintiff,
v.
C. PIERCE, et al.,
Defendants.

No. 2:21-cv-1789 TLN CSK P

ORDER

Plaintiff is a state prisoner proceeding pro se. On August 20, 2024, defendants Lopez, Pierce and Lebeck filed an administrative motion for leave to file a second motion for summary judgment based on non-exhaustion of plaintiff’s second retaliation claim. As set forth below, within twenty-one days from the date of this order, plaintiff is directed to file an opposition or statement of non-opposition to defendant’s motion, and to file a notice of change of address.

I. BACKGROUND

The Court’s scheduling order, as amended, set a deadline of January 27, 2024, for defendants to file pretrial motions. (ECF Nos. 48, 56). On January 18, 2024, defendants filed a motion for summary judgment on grounds that plaintiff failed to exhaust his administrative remedies as to plaintiff’s claim that defendant Pierce was deliberately indifferent to plaintiff’s medical needs, and on the merits of his remaining claims. On August 16, 2024, the Court issued findings and recommendations noting that defendants failed to address plaintiff’s retaliation claim

1 against defendant Pierce based on the fourth incident falsely charging plaintiff with two rules
2 violations. (ECF No. 70 at 35 n.15, 44.)

3 On August 20, 2024, defendants filed an administrative motion for leave to file a second
4 motion for summary judgment as to the second retaliation claim. (ECF No. 71) (citing Local
5 Rule 233).

6 On August 23, 2024, plaintiff's copy of the findings and recommendations was returned
7 as undeliverable and with an indication that plaintiff has been paroled.

8 II. LOCAL RULE 233

9 Administrative motions are governed by Local Rule 233, which provides:

10 Miscellaneous administrative matters which require a Court order
11 may be brought to the Court's attention through a motion for
12 administrative relief. Examples of matters that such motions may
13 address include motions to exceed applicable page limitations;
14 requests to shorten time on a motion; requests to extend a response
deadline; requests to alter a briefing schedule; or requests to alter a
discovery schedule that does not affect dispositive motion filing
dates, trial dates, or the final pre-trial conference.

15 L.R. 233.

16 III. DISCUSSION

17 Though defendants' motion is not one of the motions listed as an example in Local Rule
18 233, the motion does affect the dispositive motion filing dates. Further, the Court finds the
19 shortened briefing period provided under Local Rule 233 to be insufficient, particularly for
20 incarcerated plaintiffs. While it appears that plaintiff may have paroled from prison, it is
21 appropriate to give plaintiff additional time to respond to the motion.

22 Accordingly, plaintiff is granted twenty-one days from the date of this order to file an
23 opposition or statement of non-opposition to defendants' motion for leave to file a second motion
24 for summary judgment. Further, although plaintiff's copy of the findings and recommendations
25 was returned, plaintiff was properly served. It is the plaintiff's responsibility to keep the court
26 apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents
27 at the record address of the party is fully effective. In an abundance of caution, plaintiff is
28 directed to file a notice of change of address.

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Good cause appearing, IT IS HEREBY ORDERED that within twenty-one days from the date of this order, plaintiff shall file an opposition or statement of non-opposition to defendant's motion for leave to file a second motion for summary judgment and shall file a notice of change of address.

Dated: August 30, 2024



CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE

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