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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERROL LOVELL UNDERWOOD,
Plaintiff,
v.
ROBERT MAYES,
Defendant.

No. 2:22-cv-0694 DB P

ORDER

Plaintiff is a state prisoner proceeding with a civil rights action under 42 U.S.C. § 1983. On October 20, 2023, plaintiff filed a document entitled “Plaintiff Discovery – Defendant Answer to Plaintiff Interrogatories and Admission.” (ECF No. 33.) Plaintiff introduces the document by explaining that he is filing his discovery. He then goes on to argue the merits of his case. Construing the motion as a motion for summary judgment, defendant seeks an extension of time to respond. (ECF No. 34.) Defendant explains that he is investigating plaintiff’s claims in preparation for filing a motion for summary judgment on or before the December 29, 2023 deadline. Defendant has shown good cause for an extension of time.

It is not clear that plaintiff intends to move for summary judgment in his October 20 filing. The filing references discovery in the title and does not include a Statement of Undisputed Facts as required by Local Rule 260(a). Below, the court gives plaintiff an opportunity to explain whether or not he intends his October 20 filing to be a motion for summary judgment. If he does,

1 then the court will grant defendant's motion for an extension of time. If he does not, then
2 defendant's motion will be dismissed as moot.

3 Accordingly, IT IS HEREBY ORDERED that within 20 days of the date of this order,
4 plaintiff shall file a document which states whether or not he intends his October 20 filing to be a
5 motion for summary judgment.

6 Dated: November 14, 2023

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9 DEBORAH BARNES
10 UNITED STATES MAGISTRATE JUDGE
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