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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TRACYE B. WASHINGTON,

Plaintiff,

v.

W. A. DUNCAN, Warden, et al.,

Defendants.

No. C 05-2775 WHA (PR)

**ORDER GRANTING
DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

This is a pro se section 1983 civil rights action filed pro se by a state prisoner. Defendants have moved for summary judgment. Although he was granted an extension of time to oppose the motion, plaintiff has not done so. For the reasons set out below, the motion for summary judgment is **GRANTED**.

DISCUSSION

The motion for summary judgment is unopposed. A district court may not grant a motion for summary judgment solely because the opposing party has failed to file an opposition. *Cristobal v. Siegel*, 26 F.3d 1488, 1494-95 & n.4 (9th Cir. 1994) (unopposed motion may be granted only after court determines that there are no material issues of fact). The Court may, however, grant an unopposed motion for summary judgment if the movant's papers are themselves sufficient to support the motion and do not on their face reveal a genuine issue of material fact. *See United States v. Real Property at Incline Village*, 47 F.3d 1511, 1520 (9th Cir. 1995) (local rule cannot mandate automatic entry of judgment for moving party

1 without consideration of whether motion and supporting papers satisfy Fed. R. Civ. P. 56), *rev'd*
2 *on other grounds sub nom. Degen v. United States*, 517 U.S. 820 (1996).

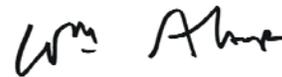
3 The papers in support of the motion for summary judgment show that when plaintiff
4 became combative, defendants used only such force as was necessary to restore order. The
5 movants' papers are sufficient to support the motion and do not on their face reveal a genuine
6 issue of material fact. The motion for summary judgment will be granted.

7 **CONCLUSION**

8 The motion for summary judgment (document number 52 on the docket) is **GRANTED**.
9 The clerk shall close the file.

10 **IT IS SO ORDERED.**

11 Dated: September 30, 2008.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE