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5 UNITED STATES DISTRICT COURT  
6 NORTHERN DISTRICT OF CALIFORNIA  
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8 EDUARDO REYES,

No. C 08-813 SI (pr)

9 Plaintiff,

**ORDER**

10 v.

11 RICHARD KIRKLAND, warden;  
12 et al.,

13 Defendants.  
14 \_\_\_\_\_/

15 Defendants filed a motion for summary judgment in which they argued, among other  
16 things, that they were entitled to qualified immunity. After defendants filed their motion,  
17 plaintiff filed a "motion for request for production of documents," and a "motion for  
18 continuance; renewal of motion to appoint counsel." Defendants opposed the motions, arguing  
19 that discovery should be stayed pending resolution of their motion for summary judgment  
20 because they raised a qualified immunity defense in it.

21 The U.S. Supreme Court has made it abundantly clear that a district court should stay  
22 discovery until the threshold question of qualified immunity is settled. See Crawford-El v.  
23 Britton, 523 U.S. 574, 598 (1998); Anderson v. Creighton, 483 U.S. 635, 646 n.6 (1987); Harlow  
24 v. Fitzgerald, 457 U.S. 800, 818 (1982). In light of the fact that defendants' motion for summary  
25 judgment raises a qualified immunity defense, plaintiff's motion for discovery and motion for  
26 continuance to obtain discovery are DENIED. (Docket # 51, # 52.) Discovery is now  
27 STAYED pending resolution of the motion for summary judgment or other court order.  
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The court notes that, as a practical matter, plaintiff did receive the 30-day continuance he requested because he did not file his opposition to the motion for summary judgment until a month after the deadline. Plaintiff's opposition to the motion for summary judgment is deemed timely filed, as is defendants' reply.

Plaintiff's renewed motion for appointment of counsel is DENIED for the same reasons the court denied his original motion for appointment of counsel. (Docket # 51.)

The motion for summary judgment is now fully briefed and remains under submission.

IT IS SO ORDERED.

Dated: May 3, 2010

  
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SUSAN ILLSTON  
United States District Judge