

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JONATHAN W. GRIGSBY,)	
)	
Plaintiff(s),)	No. C 08-1843 CRB (PR)
)	
vs.)	ORDER
)	
M. S. EVANS, et al.,)	(Docket # 49)
)	
Defendant(s).)	
_____)	

On January 22, 2010, the court found that, when liberally construed, plaintiff's allegations that defendants prevented him from sending mail to his family state a cognizable First Amendment claim under 42 U.S.C. § 1983 and ordered the U.S. Marshal to serve the named defendants. Docket # 22 at 2.

On May 5, 2010, defendants filed a motion to dismiss under Federal Rule of Civil Procedure 12(b) and 12(b)(6). Plaintiff did not file an opposition; instead he filed a belated motion for an extension of time, claiming that he did not receive a copy of the complaint served on the defendants by the marshal.

On July 21, 2010, the court noted that plaintiff was not entitled to service of a copy of the complaint served on the defendants by the marshal because he presumably had a copy of his own complaint. But in the interest of expediting these proceedings, the clerk was instructed to send plaintiff a copy of the complaint (docket # 1) served on the defendants by the marshal. The court granted plaintiff an extension of time until August 31, 2010 to file an opposition to defendants' motion to dismiss and advised him that no further extensions of time will be granted.

1 On August 3, 2010, plaintiff filed a motion "seeking copy of exhibits and
2 evidence sent with original complaint." He claims that the copy of the complaint
3 he received from the clerk is incomplete because it does not include any of the
4 "exhibits of evidence or CDCR documents sent with my civil complaint." The
5 motion (docket # 49) is DENIED. The document filed as plaintiff's complaint
6 and appearing in the case docket as item number one is comprised of 23 pages –
7 two consecutive copies of plaintiff's eleven-page complaint and a copy of the
8 front side of the envelope in which the two copies of the complaint were received
9 by the court. There are no exhibits or documents in support of plaintiff's
10 complaint in case docket item number one or in any other part of the docket.
11 Defendants and plaintiff were served with a copy of the same document –
12 plaintiff's eleven-page complaint.

13 A further extension of time is not warranted. Plaintiff shall file an
14 opposition, or notice of opposition, to defendants' motion to dismiss by no later
15 than August 31, 2010, and defendants shall file a reply to any opposition within
16 15 days thereafter.

17 SO ORDERED.

18 DATED: Aug. 5, 2010

19 
20 _____
21 CHARLES R. BREYER
22 United States District Judge