

1 **P O R T E R | S C O T T**

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11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 GARY WILLIAMS,

Case No. 3:08-cv-02454-SI

14 Plaintiff,

**EX PARTE APPLICATION TO MODIFY  
THE ORDER DATED SEPTEMBER 29,  
2008; DECLARATION OF JOHN R.  
WHITEFLEET; and PROPOSED  
ORDER**

15 vs.

16 DEPARTMENT OF CORRECTION AND  
17 REHABILITATION,

18 Defendants.

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20 Defendant NATHAN NASH hereby submits the following Ex Parte Application to  
21 Modify the Order dated September 29, 2008. That order set a deadline for Defendant to file  
22 a Dispositive Motion, which has now expired prior to the appearance of Defendant  
23 NATHAN NASH in this case.

24 On September 29, 2008, this Court issued an Order stating: “No later than December  
25 18, 2008, defendant must file and serve a motion for summary judgment or other dispositive  
26 motions.” Order, dated 9/29/08 (Docket No. 5). This deadline was prefaced on service of  
27 summons and complaint which did not actually occur.

28 The filing of the Answer concurrently herewith is Defendant’s first appearance in the  
action. On or about January 16, 2008, Porter Scott, a Professional Corporation, was retained  
as counsel for the Defendant NASH. (Declaration of John Whitefleet.). The deadline as

1 issued by the court to file a motion for summary judgment expired prior to any appearance  
2 by Defendant. Plaintiff is a pro per litigant and the address provided by Plaintiff is believed  
3 to be associated with a shelter; as such, communication between the parties is severely  
4 hampered on shortened notice. Because of Plaintiff's pro se status and the recent retention  
5 of counsel, counsel for Defendant has not been able to contact Plaintiff in an effort to obtain  
6 a stipulation to modify the order.

7 Defendant submits that good cause exists to allow Defendant additional time to file  
8 his dispositive motion, if any, because the deadline has already expired prior to his  
9 appearance, the recent retention of counsel, and the limited time within which counsel has  
10 had to review the matter in order to respond to the Complaint by appropriate motion.  
11 Defendant submits Plaintiff will not be penalized by an extension of time for Defendant to  
12 file a dispositive motion.

13 WHEREFORE, Defendant requests this Court modify its Order dated September 29,  
14 2008, to allow Defendant to file dispositive motions up to and including April 3, 2009.

15  
16 Respectfully Submitted,

17 Dated: January 29, 2009

18 PORTER SCOTT  
19 A PROFESSIONAL CORPORATION

20 By /s/ John R. Whitefleet  
21 Terence J. Cassidy  
22 John R. Whitefleet  
23 Attorneys for Defendant NATHAN NASH  
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**DECLARATION**

I, John R. Whitefleet, declare as follows:

1. I am an attorney at law, licensed to practice in and before all the courts of the State of California, including the United States District Court, Northern District of California, and am an associate with the professional corporation of Porter Scott, attorneys of record for Defendant NATHAN NASH in the above-entitled action.
2. Prior to any appearance by Defendant, the deadlines in the order of the court dated September 29, 2008, expired. On or about January 16, 2009, Porter Scott, A Professional Corporation, was retained as counsel for the above-named Defendant.
3. On behalf of Defendant, I request this Court modify its Order dated September 29, 2008 to extend the time for Defendant to file dispositive motions up to and including April 3, 2009.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct, and if called to testify as a witness in this matter I can and will testify competently to the matters of fact contained herein based upon my personal knowledge.

Executed January 29, 2009, at Sacramento, California.

/s/ John R. Whitefleet

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John R. Whitefleet

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**PROPOSED ORDER**

Having reviewed the application of Defendant NATHAN NASH to modify the Order dated September 29, 2008, to extend the time to file dispositive motions, good cause exists to allow Defendant up to and including April 3, 2009, within which to file a motion for summary judgment or other dispositive motion with respect to the claims in this case.

**IT IS SO ORDERED.**



DATED:

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Susan Illston  
United States District Judge

1 **Case Name: Williams v. Department of Correction and Rehabilitation**  
2 **Case No.: USDC NDCA No.: C 08-cv-02454-SI**

3 **DECLARATION OF SERVICE**

4 I am a citizen of the United States and employed in Sacramento County, California;  
5 I am over the age of 18 years and not a party to the within action; my business address is 350  
6 University Avenue, Suite 200, Sacramento, California 95825.

7 On the date below I served the attached:

8 **EX PARTE APPLICATION TO MODIFY THE ORDER DATED SEPTEMBER 29,  
9 2008; DECLARATION OF JOHN R. WHITEFLEET; and PROPOSED ORDER**

10  **BY MAIL:** I caused such envelope with postage thereon fully prepaid to be  
11 placed in the United States mail at Sacramento, California.

12  **BY PERSONAL SERVICE:** I caused such document to be delivered by  
13 hand to the office of the person(s) listed below.

14  **BY OVERNIGHT DELIVERY:** I caused such document to be delivered by  
15 overnight delivery to the office of the person(s) listed above.

16  **BY FACSIMILE:** I caused such document to be transmitted by facsimile  
17 machine to the office of the person(s) listed above.

18 addressed as follows:

19 Gary A. Williams  
20 566 South San Pedro #782  
21 Los Angeles, Ca 90013

22 PRO SE

23 I declare under penalty of perjury that the foregoing is true and correct and was  
24 executed on January 29, 2008, in Sacramento, California.

25 /s/ Ramina Nurullina

26 \_\_\_\_\_  
27 Ramina Nurullina