Torres v. Lewis Doc. 22

1 2 3 4 IN THE UNITED STATES DISTRICT COURT 5 FOR THE NORTHERN DISTRICT OF CALIFORNIA 6 7 ANTHONY TORRES, No. C 11-2638 JSW (PR) 8 Plaintiff. ORDER DENYING MOTIONS TO 9 STAY, TO COMPEL AND FOR APPOINTMENT OF COUNSEL; v. EXTENDING TIME FOR 10 G. LEWIS; MATTHEW CATE; G. OPPOSITION KELLEY 11 12 Defendant. (Docket Nos. 16, 19, 20) 13

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Plaintiff, a California prisoner incarcerated at Pelican Bay State Prison ("PBSP") has filed this pro se civil rights complaint under 42 U.S.C. § 1983. Defendants have a motion for summary judgment in which they are argue, inter alia, that they are entitled to qualified immunity. Plaintiff has not filed an opposition, but rather has filed motions to compel discovery and for appointment of counsel. Defendants move to stay discovery until their argument regarding qualified immunity is resolved. Defendants' qualified immunity argument is based on evidence that conflicts with factual allegations in the complaint, including the existence of fire sprinklers in Plaintiff's area of the prison, whether the prison is situated in a tsunami evacuation zone, and whether there is a tsunami evacuation plan. Qualified immunity cannot be decided as long as there are material factual issues in dispute, and Plaintiff's discovery efforts are directed at these factual issues. Accordingly, the motion to stay discovery is DENIED. (Docket No. 16.) Defendants shall respond to Plaintiff's discovery requests within 7 days of the date this order is filed.

Plaintiff's motion to compel is DENIED because he has not complied with the

1	requirements to meet and "confer" with Defendants prior to filing such a motion. Fed. R
2	Civ. P. 37(a). (Docket No. 19.) Plaintiff's motion for appointment of counsel is
3	DENIED. (Docket No. 20.)
4	IT IS SO ORDERED.
5	DATED: April 13, 2012
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7	JEFFREY S. WHITE United States District Judge
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1	UNITED STATES DISTRICT COURT
2	FOR THE
3	NORTHERN DISTRICT OF CALIFORNIA
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5	A NITHONY TODDES
6	ANTHONY TORRES, Case Number: CV11-02638 JSW
7	Plaintiff, CERTIFICATE OF SERVICE
8	v. G. LEWIS et al,
9	Defendant.
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11	I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
12	Court, Northern District of California.
13	That on April 13, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
14	said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.
15	receptation focused in the Cream's officer
16	
17	Anthony Torres Pelican Bay State Prison
18	P.O. Box 7500 #K59800
19	Crescent City, CA 95532
20	Dated: April 13, 2012 Guniya Ottolii
21	Dated: April 13, 2012 Richard W. Wieking, Clerk
22	By: Jennifer Ottolini, Deputy Clerk
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