

FILED
 JUL 12 2013
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

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

KIRK DOUGLAS WILLIAMS,

Plaintiff,

v.

K. TILLEY,

Defendant.

No. C 12-4707 JSW (PR)

**ORDER ON PENDING
 MOTIONS; EXTENDING
 TIME; DIRECTING
 DEFENDANT TO SHOW
 CAUSE**

(Docket Nos. 31, 32, 33, 36, 37, 42)

Plaintiff, a California prisoner proceeding pro se, filed this civil rights complaint alleging that Defendant, an employee of Salinas Valley State Prison, violated Plaintiff's constitutional rights. Plaintiff was granted leave to file an amended complaint on or before June 14, 2013. Now before the Court are a number of motions filed by Plaintiff.

Plaintiff has filed a "renewed" motion to permit him to correspond with another inmate, or in the alternative for "appointment" of an attorney or an investigator. The Court has previously ordered Defendant to inform Plaintiff how to follow prison procedures for obtaining a non-confidential declaration from another, and to allow Plaintiff to obtain such a declaration if he does so. (Dkt. 26.) Plaintiff has shown that he has followed the applicable procedures but prison officials have denied him permission to obtain the declaration. Defendant has not responded to Plaintiff's motion or explained why permission was denied. Within 14 days of the date this order is filed, Defendant

1 **shall** show that he has complied with the Court’s order (dkt. 26) and **shall** show cause
2 why he should not be ordered to permit Plaintiff to obtain a non-confidential declaration
3 from the other inmate.

4 Plaintiff has filed two motions to “compel” defense counsel to meet and confer
5 with him about discovery requests.¹ (Dkt. 32 & 33.) Defendant has shown that he has
6 since written to Plaintiff addressing his discovery requests and other matters.
7 Accordingly, the motion is DENIED as moot. The Court notes that Defendant is
8 incorrect that there is no operative complaint. Although Plaintiff has been granted leave
9 to file an amended complaint, until such time as he does so, the original complaint
10 remains the operative complaint. Nonetheless, Defendant need not respond to discovery
11 requests until after Plaintiff files the first amended complaint or the deadline for doing so
12 passes, whichever comes first. Plaintiff’s motion to “appoint” counsel or an investigator
13 is DENIED as unnecessary.

14 Plaintiff has filed a motion to have access to auxiliary aids for magnifying print.
15 (Dkt. 36). These aids are available to certain prisoners but not to Plaintiff, who is in
16 administrative segregation. While it is readily apparent that Plaintiff needs to be able to
17 read in order to litigate this case effectively, his profuse filings, including the original
18 complaint and subsequent proposed supplements, demonstrate that he has been more
19 than able to pursue his claims adequately without the requested aids. The motion is
20 DENIED.

21 Plaintiff’s motion for an extension of time, to and including **August 15, 2013**, in
22 which to file his first amended complaint is GRANTED. (Dkt. 37, 42). The amended
23 complaint must include the caption and civil case number used in this order (No. C 12-
24 4707 JSW (PR)) and the words “COURT-ORDERED FIRST AMENDED
25 COMPLAINT” on the first page. Because an amended complaint completely replaces
26 the original complaint, *see Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992),
27

28 ¹These motions appear to be two copies of the same motion.

1 Plaintiff may not incorporate material from the original complaint by reference. Rather,
2 he must include all of the claims and allegations, including those from the original
3 complaint, that he wishes to pursue. Any claims not included in the amended complaint
4 will no longer be part of this case. If Plaintiff does not file an amended complaint within
5 the designated time and in accordance with this order, Plaintiff will not be allowed
6 another opportunity to amend, the case will proceed solely on the basis of the cognizable
7 claims in the original complaint, and he will not be given an opportunity to pursue the
8 claims in the motion to supplement the case.

9 No further extensions of time will be granted.

10 The deadlines for dispositive motions are VACATED and will be re-set after
11 Plaintiff files an amended complaint or the first

12 This order terminates docket numbers 31, 32, 33, 36, 37, and 42.

13 IT IS SO ORDERED.

14 DATED: ~~JUL 12~~ 2013

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16 JEFFREY S. WHITE
17 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

WILLIAMS,
Plaintiff,

Case Number: CV12-04707 JSW
CERTIFICATE OF SERVICE

v.

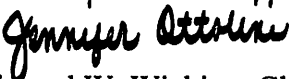
TILLEY et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 15, 2013, 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 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.

Kirk Douglas Williams F-44523
Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960

Dated: July 15, 2013


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk