

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MANUEL SHOTWELL,

Plaintiff,

v.

CHAVEZ-EPPERSON; E. MEDINA; S.  
BEYER; SMITH; BOLES; FLOREZ;  
GARCIA; VARGAS; PETERSON;  
RAMIREZ; AVILA,

Defendants.

No. C 15-2894 WHA (PR)

**ORDER REOPENING CASE;  
SCHEDULING DISPOSITIVE  
MOTIONS; TO SHOW CAUSE RE.  
UNSERVED DEFENDANTS**

---

Pursuant to the mandate of the United States Court of Appeals affirming in part and reversing the part the judgment and remanding the case to this court for further proceedings, within 90 days of the date this Order is filed, defendants shall file a motion for summary judgment or other dispositive motion regarding the remaining claims, as described in the Court of Appeals' order (ECF No. 170). Within 90 days of the date this order is filed, plaintiff shall show cause why the claims against the unserved defendants should not be dismissed for lack of service under Rule 4(m) of the Federal Rules of Civil Procedure.

If defendants are of the opinion that this case cannot be resolved by summary judgment, they shall so inform the court prior to the date the summary judgment motion is due. All papers filed with the court shall be promptly served on the plaintiff.

Plaintiff's opposition to the dispositive motion, if any, shall be filed with the court and served upon defendants no later than **28 days** from the date of service of the motion. Plaintiff

1 must read the attached page headed “NOTICE -- WARNING,” which is provided to him pursuant  
2 to *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc), and *Klinge v. Eikenberry*,  
3 849 F.2d 409, 411-12 (9th Cir. 1988).

4 Defendants **shall** file a reply brief no later than **14 days** after the date of service of the  
5 opposition.

6 The motion shall be deemed submitted as of the date the reply brief is due. No hearing  
7 will be held on the motion unless the court so orders at a later date.

8 Along with his motion, defendants shall file proof that they served plaintiff the *Rand*  
9 warning at the same time they served him with their motion. Failure to do so will result in the  
10 summary dismissal of their motion.

11 All communications by the plaintiff with the court must be served on defendants, or  
12 defendants’ counsel once counsel has been designated, by mailing a true copy of the document to  
13 defendants or their counsel.

14 Discovery may be taken in accordance with the Federal Rules of Civil Procedure. No  
15 further court order under Federal Rule of Civil Procedure 30(a)(2) or Local Rule 16-1 is required  
16 before the parties may conduct discovery.

17 Plaintiff is reminded that state prisoners inmates may review all non-confidential material  
18 in their medical and central files, pursuant to *In re Olson*, 37 Cal. App. 3d 783 (Cal. Ct. App.  
19 1974); 15 California Code of Regulations § 3370; and the CDCR’s Department Operations  
20 Manual §§ 13030.4, 13030.16, 13030.16.1-13030.16.3, 13030.21, and 71010.11.1. Requests to  
21 review these files or for copies of materials in them must be made directly to prison officials, not  
22 to the court.

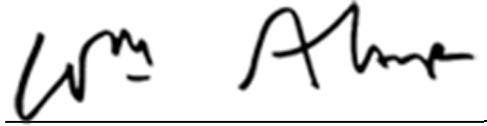
23  
24  
25  
26  
27  
28

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

The clerk shall reopen the file.

**IT IS SO ORDERED.**

Dated: December 2, 2021.



---

WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

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

**NOTICE -- WARNING (SUMMARY JUDGMENT)**

If Defendants move for summary judgment, they are seeking to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact-- that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in Defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.