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

CLARENCE V. KNIGHT,	)	No. C 06-0887 SBA (pr)
	)	
Plaintiff,	)	<b><u>ORDER GRANTING IN</u></b>
v.	)	<b><u>PART DEFENDANTS'</u></b>
	)	<b><u>MOTION FOR EXTENSION</u></b>
M. S. EVANS, et al.,	)	<b><u>OF TIME TO FILE</u></b>
	)	<b><u>DISPOSITIVE MOTION</u></b>
Defendant.	)	
_____	)	(Docket no. 32)

Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983. Before the Court is Defendants' motion for an extension of time to file a dispositive motion up to and including April 27, 2009, forty-five days following the scheduled settlement proceedings before Magistrate Judge Nandor Vadas on March 12, 2009. In its Order dated February 11, 2009, the Court noted that the deadline for filing a dispositive motion was on February 19, 2009. (Feb. 11, 2009 Order at 6.) Defendants claim that the February 11, 2009 Order "provided Defendants four court-days to prepare and file a motion for summary judgment," especially in light of two legal holidays. (Rivo Decl. at 2.) However, the Court notes that in its December 10, 2008 Order, Defendants were directed to file a motion for summary judgment or other dispositive motion "no later than thirty (30) days from the date their answer is due." (Dec. 10, 2008 Order at 15.) In its February 11, 2009 Order, the Court noted that Defendants' answer was filed on January 20, 2009; therefore, the dispositive motion was due thirty days later, on February 19, 2009. Contrary to Defendants' allegations, they had thirty days after filing their answer to file their dispositive motion. In addition, the Court has warned the parties multiple times in previous orders that "no further extensions of time will be granted in this case absent exigent circumstances." (Dec. 10, 2008 Order at 17; Feb. 11, 2009 Order at 7.) Defendants have failed to allege that their failure to file a timely dispositive motion was due to exigent circumstances. Instead, Defendants allege that they "believe that settlement proceedings may be successful, based on similarly situated

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cases that have settled before Magistrate Judge Vadas." (Rivo Decl. at 3.) The Court notes that when this case was referred for settlement proceedings, the January 21, 2009 Order stated, "The parties are directed to abide by the briefing schedule in the Court's December 10, 2008 Order of Service." (Jan. 21, 2009 Order at 1.) Accordingly, the Court finds that Defendants were on notice that the scheduled settlement conference would not affect the briefing schedule for their dispositive motion. Nevertheless, having read and considered Defendants' request and the accompanying declaration filed by Defendants' counsel, Lily A. Rivo, the Court finds that a brief extension of time is appropriate. Accordingly, IT IS HEREBY ORDERED that Defendants' request for an extension of time to file a dispositive motion (docket no. 32) is GRANTED in part. The time in which Defendants must file a dispositive motion will be extended up to and including **February 27, 2009**. Plaintiff's opposition to the dispositive motion shall be filed with the Court and served on Defendants no later than **March 30, 2009**. If Defendants wish to file a reply brief, they may do so no later than **ten (10) days** after the date Plaintiff's opposition is filed.

This Order terminates Docket no. 32.

IT IS SO ORDERED.

DATED: 2/20/09

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

CLARENCE KNIGHT,  
Plaintiff,

Case Number: CV06-00887 SBA  
**CERTIFICATE OF SERVICE**

v.

M S EVANS, WARDEN 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 February 20, 2009, 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.

Clarence V. Knight C07508  
California State Prison - Soledad  
P.O. Box 1050  
Soledad, CA 93960-1050

Dated: February 20, 2009

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk