

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 DEMETRIUS A. WRIGHT,

No. C 09-4358 CW (PR)

4 Plaintiff,

ORDER PROVIDING RAND SUMMARY
JUDGMENT NOTICE AND SETTING NEW
BRIEFING SCHEDULE

5 v.

6 A. HEDGEPEETH, et al.,

7 Defendants.

8 _____/
9 Plaintiff Demetrius A. Wright, a state prisoner incarcerated
10 at Salinas Valley State Prison (SVSP), filed the above-titled pro
11 se civil rights action pursuant to 42 U.S.C. § 1983 claiming the
12 violation of his First Amendment rights. Defendants have filed a
13 motion for summary judgment.

14 In its Order of Service, the Court, in accordance with the
15 holding of Rand v. Rowland, 154 F.3d 952, 962-63 (9th Cir. 1998),
16 explained to Plaintiff what he must do in order to oppose a motion
17 for summary judgment. A recent decision from the Ninth Circuit,
18 however, requires that pro se prisoner-plaintiffs be given "notice
19 of what is required of them in order to oppose" summary judgment
20 motions at the time of filing of the motions, rather than when the
21 court orders service of process or otherwise before the motions are
22 filed. Woods v. Carey, No. 09-15548, slip op. 7871, 7874 (9th Cir.
23 July 6, 2012). Accordingly, the Court now provides the following
24 notice to Plaintiff for his information in connection with
25 Defendants' pending motion to dismiss and for summary judgment:

26 The defendants have made a motion for summary judgment by
27 which they seek to have your case dismissed. A motion for
28 summary judgment under Rule 56 of the Federal Rules of Civil
Procedure will, if granted, end your case.

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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 the defendants' 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.

Rand v. Rowland, 154 F.3d 952, 962-63 (9th Cir. 1998).

Plaintiff's opposition to Defendants' motion for summary judgment was due July 6, 2012. In order to allow Plaintiff time to prepare his opposition to the pending motion for summary judgment taking into account this Rand summary judgment notice, the Court now sets the following new briefing schedule on Defendants' motion for summary judgment: Plaintiff must file and serve his opposition to the motion, or a supplemental opposition if he already has mailed an opposition to Defendants and the Court, no later than **August 10, 2012**. Defendants shall file and serve their reply no later than **August 24, 2012**.

IT IS SO ORDERED.

Dated: July 11, 2012



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE