

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 KENNETH JEROME PACKNETT,
4 Plaintiff,
5 v.
6 FERNAND ALVAREZ, et al.,
7 Defendants.
8

Case No. [15-cv-01229-YGR](#) (PR)

**ORDER REGARDING MOTION FOR
ADMINISTRATIVE RELIEF; AND
GRANTING PLAINTIFF HIS FIFTH
AND FINAL EXTENSION OF TIME TO
FILE OPPOSITION TO DEFENDANTS'
DISPOSITIVE MOTION**

9 Plaintiff Kenneth Jerome Packnett, an indigent prisoner who is currently housed at the
10 California Medical Facility (“CMF”), filed a *pro se* civil rights action pursuant to 42 U.S.C.
11 § 1983 regarding alleged violations of his federal rights while he was incarcerated at San Quentin
12 State Prison.

13 Defendants have filed a Motion for Summary Judgment and Motion to Dismiss. Dkt. 47.
14 To date, Plaintiff has not filed an opposition even though he has been granted four extensions of
15 time to do so. Dkts. 57, 61, 65, 68. His last opposition deadline of May 25, 2017 has passed. *See*
16 Dkt. 68 at 1.

17 Before the Court is Plaintiff’s filing entitled, “Discretionary Review re Extension of Time;
18 Rule 56 Federal Rules of Civil Procedure; Declaration of Plaintiff.” Dkt. 69. In this filing,
19 Plaintiff explains that he was recently examined by a neurologist, who recommended that Plaintiff
20 undergo “six to nine weeks of physical therapy and additional procedures.” *Id.* at 2. Plaintiff also
21 requests the following materials which are “intended to allow [him] to continue the prosecution of
22 this complaint”: 10 #2 pencils; 5 black pens; 5 yellow highlighters; 8 folders with pockets; 4 hours
23 of law library access on both Saturday and Sunday; and 50 sheets of lined legal paper. *Id.* at 2-3.
24 Plaintiff claims he is “indigent and unable to pay [for] 15 legal lined 1-28 pages” *Id.* at 3.
25 Plaintiff also requests that the Court order prison medical staff to “refer [him] to be seen by [an]
26 optometr[ist] [because his] bi-focals broke two months ago.” *Id.* However, the Court notes that
27 nowhere in this filing has Plaintiff alleged that he has made such requests from CMF or that CMF
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1 officials have refused to provide him with the aforementioned materials, law library access or an
2 optometry appointment. *See id.* at 1-3. Instead, Plaintiff has filed a document, which will be
3 construed as a motion for administrative relief from this Court directing CMF officials to provide
4 him with his aforementioned requests.

5 Although CMF is not a party to this action, it is well established that indigent prisoners
6 must be provided with a writing instrument and paper, and other materials such as envelopes and
7 postage, necessary to draft and file legal documents. *See Bounds v. Smith*, 430 U.S. 817, 824-25
8 (1977); *Gluth v. Kangas*, 951 F.2d 1504, 1510 (9th Cir. 1991); *King v. Atiyeh*, 814 F.2d 565, 565
9 (9th Cir. 1987). In *Bounds*, the United States Supreme Court also held “that the fundamental
10 constitutional right of access to the courts requires prison authorities to assist inmates in the
11 preparation and filing of meaningful legal papers by providing prisoners with adequate law
12 libraries or adequate assistance from persons trained in the law.” 430 U.S. at 828.

13 In view of this, Plaintiff’s motion is GRANTED in part and DENIED in part. The Court
14 DENIES Plaintiff’s motion for an order directing CMF prison officials to provide him with his
15 specific aforementioned requests because he has not shown a sufficient reason for this Court to
16 interfere in the day-to-day operations of the prison. *See Turner v. Safley*, 482 U.S. 78, 84-86
17 (1987); *Wright v. Rushen*, 642 F.2d 1129, 1132 (9th Cir. 1981) (courts should avoid enmeshing
18 themselves in minutiae of prison operations in the name of constitution). To the extent that
19 Plaintiff is requesting *reasonable access* to such materials necessary to draft and file legal
20 documents, the Court GRANTS his motion. The Court requests that CMF officials provide
21 Plaintiff with reasonable access to the law library as well as paper and a writing instrument in
22 order for him to comply with this Court’s Orders and deadlines.

23 In light of Plaintiff’s most recent filing, the Court finds that Plaintiff may be granted a brief
24 fifth and *final* extension of time to file his opposition to Defendants’ Motion for Summary
25 Judgment and Motion to Dismiss. The time in which Plaintiff may file his opposition to
26 Defendants’ dispositive motion will be extended up to and including **July 21, 2017**. Defendants
27 shall file a reply brief no later than **fourteen (14) days** after the date Plaintiff’s opposition is filed.

28 **This is Plaintiff’s final extension, and no further extensions will be granted.**

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The Clerk of the Court is instructed to serve a copy of this Order on the Litigation Coordinator's Office at the California Medical Facility, 1600 California Avenue, Vacaville, CA 95696.

This Order terminates Docket No. 69.

IT IS SO ORDERED.

Dated: June 28, 2017



YVONNE GONZALEZ ROGERS
United States District Judge