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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ISAURO GONZALES,
Plaintiff,
v.
LE VOS, et al.,
Defendants.

Case No. [16-cv-04184-PJH](#)

ORDER

United States District Court
Northern District of California

This is a civil rights case brought pro se by a detainee. The court previously denied plaintiff's motion to appoint counsel and plaintiff then filed a letter stating that he does not know what to do and needs advice on how to proceed. Defendants have since filed a motion for summary judgment and plaintiff has not filed an opposition. The court cannot provide legal advice and as noted in the prior order, plaintiff has presented his claims adequately and the issues are not complex, therefore he has not shown exceptional circumstances to warrant the appointment of counsel. Moreover, after reviewing defendants' motion for summary judgment, plaintiff does not appear likely to succeed on the merits. While plaintiff states he is on "psych meds", he has not provided sufficient information to demonstrate his inability to proceed with this action. The court does not assume that any individual with mental health problems or using psychotropic medication is incompetent and unable to litigate a case.

Plaintiff will be provided an extension to file an opposition. Failure to file an opposition may result in dismissal of this action. The court also notes that defendants' motion for summary judgment does not contain a *Rand* notice to plaintiff. Defendants shall serve plaintiff with another copy of the motion for summary judgment and the required notices.

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CONCLUSION

1. Plaintiff shall file an opposition to the motion for summary judgment by **May 15, 2017**. Failure to file an opposition may result in dismissal of this action.

2. Defendants shall provide plaintiff an additional copy of the summary judgment motion and also serve, on a separate paper, the appropriate notice or notices required by *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc), and *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003). See *Woods v. Carey*, 684 F.3d 934, 940-941 (9th Cir. 2012) (*Rand* and *Wyatt* notices must be given at the time motion for summary judgment or motion to dismiss for nonexhaustion is filed, not earlier); *Rand* at 960 (separate paper requirement).

3. Defendants must provide notice to the court that the appropriate notices have been served on plaintiff.

IT IS SO ORDERED.

Dated: April 5, 2017



PHYLLIS J. HAMILTON
United States District Judge

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UNITED STATES DISTRICT COURT
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CERTIFICATE OF SERVICE

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 April 5, 2017, 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.

Isauro Gonzales ID: AYA300/15054037
County Jail
701 South Able Street
Milpitas, CA 95035

Dated: April 5, 2017

Susan Y. Soong
Clerk, United States District Court



By: _____
Kelly Collins, Deputy Clerk to the
Honorable PHYLLIS J. HAMILTON