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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 PEDRO RODRIGUEZ,

11 Plaintiff,

12 vs.

13 JAMES DZURENDA,

14 Defendant.

Case No. 3:17-cv-00205-MMD-CLB

**MOTION TO EXTEND THE DEADLINE
TO FILE MOTIONS FOR
SUMMARY JUDGMENT
(Second Request)**

15 Defendant, James Dzurenda, by and through counsel, Aaron D. Ford, Attorney
16 General of the State of Nevada, and Harry B. Ward, Deputy Attorney General, hereby
17 move to extend the deadline to file dispositive motions in this matter by forty-five (45)
18 days.

19 **MEMORANDUM OF PONTS AND AUTHORITIES**

20 **I. INTRODUCTION**

21 Plaintiff Pedro Rodriguez #59114 (Rodriguez), is a prisoner in the lawful custody of the
22 Nevada Department of Corrections (NDOC). (ECF No. 7 at 1). Rodriguez is proceeding *pro*
23 *se* in this 42 U.S.C. § 1983 action asserting an First Amendment free exercise claim; an
24 equal protection claim; and a Religious Land Use and Institutionalized Persons Act
25 (RLUIPA) claim against Defendant, former NDOC Director James Dzurenda (Dzurenda).
26 (*See generally*, ECF No. 7). Rodriguez asserts that the NDOC does not recognize Satanism
27 as a legitimate faith group. (*Id.*). Rodriguez seeks declaratory, injunctive, and monetary
28 relief. (*Id.* at 14).

1 Dzurenda filed a motion for summary judgment (ECF No. 37); Rodriguez opposed the
2 motion (ECF No. 50); and Dzurenda replied. (ECF No. 54).

3 United States Magistrate Judge Carla B. Carry reviewed the record and motions and
4 submitted a Report and Recommendation that Dzurenda's motion for summary judgment
5 be granted. (ECF No. 37).

6 United States District Judge Miranda M. Du declined to adopt the Report and
7 Recommendation and ordered Defendant's motion for summary judgment be denied.
8 (ECF No. 64 at 13:1-4). The Court rejected Defendant's arguments that he is entitled to
9 summary judgment based on: the statute of limitations; exhaustion of administrative
10 remedies; personal participation of Dzurenda; and qualified immunity. (*See generally*
11 ECF No. 64).

12 Defense counsel respectfully requests this extension to: 1. become more acquainted
13 with this Court's original Order denying Defendant's initial motion to dismiss / motion for
14 summary judgment and discuss the matter with NDOC officials (remotely – due to
15 pandemic); 2. evaluate the sensitive nature of a religious case regarding Satanism; 3.
16 explore all possible defenses; and 4. obtain new and additional declarations from NDOC
17 in support of Defendant's (second) motion for summary judgment.

18 Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as
19 follows:

20 When an act may or must be done within a specified time, the
21 court may, for good cause, extend the time: (A) with or without
22 motion or notice if the court acts, or if a request is made, before
23 the original time or its extension expires; or (B) on motion made
after the time has expired if the party failed to act because of
excusable neglect.

24 Defendants' request is timely and will not hinder or prejudice Rodriguez's case, but will
25 allow for a thorough briefing to narrow or eliminate issues in this case and to address
26 Judge Du's Order of denial of Defendant's initial motion. (*See generally* ECF No. 64). The
27 requested forty-five (45) day extension of time should permit Defendant time to
28 adequately discuss the matter with NDOC officials, research, draft, obtain new and

1 additional declarations and submit additional dispositive motions in this case. Defendant
2 asserts that the requested good cause is present especially during a pandemic to warrant
3 the requested extension of time.

4 For these reasons, Defendant respectfully requests a forty-five (45) day extension of
5 time from the current deadline to file dispositive motions in this case, with a new
6 deadline to and including Friday, May 15, 2020.

7 **II. DISCUSSION**

8 **A. Fed. R. Civ. P. 6(b)(1) allows this Court to extend deadlines.**

9 District courts have inherent power to control their dockets. *Hamilton Copper &*
10 *Steel Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*,
11 958 F.2d 272, 273 (9th Cir. 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time
12 and provides as follows:

13 When an act may or must be done within a specified time, the
14 court may, for good cause, extend the time: (A) with or without
15 motion or notice if the court acts, or if a request is made, before
16 the original time or its extension expires; or (B) on motion made
after the time has expired if the party failed to act because of
excusable neglect.

17 “The proper procedure, when additional time for any purpose is needed, is to
18 present to the Court a timely request for an extension before the time fixed has expired
19 (*i.e.*, a request presented before the time then fixed for the purpose in question has
20 expired).” *Canup v. Miss. Valley Barge Line Co.*, 31 F.R.D. 282, 283 (D.Pa. 1962). The
21 *Canup* Court explained that “the practicalities of life” (such as an attorney’s “conflicting
22 professional engagements” or personal commitments such as vacations, family activities,
23 illnesses, or death) often necessitate an enlargement of time to comply with a court
24 deadline. *Id.* Extensions of time “usually are granted upon a showing of good cause, if
25 timely made.” *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D.Ohio 1947). The good cause
26 standard considers a party’s diligence in seeking the continuance or extension. *Johnson*
27 *v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

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1 **B. Good Cause Exists to Enlarge the Time for Defendants to Respond.**

2 Here, Defendants are requesting additional time of forty-five (45) days to respond
3 in advance of the deadline to do so. Therefore, they must demonstrate good cause for the
4 requested enlargement. Moreover, good cause exists to enlarge Defendant's time to move
5 for summary judgment based on the pandemic and the unavailability of NDOC employees
6 and counsel's limited office time to represent Defendant.

7 Finally, good cause exists due to the sensitivity and complexity of Rodriguez's religious
8 claims of Satanism and this Court's prior ruling denying Defendant's initial motion to
9 dismiss / motion for summary judgment. (*See generally* ECF No. 37 – Dzurenda's motion
10 for summary judgment and ECF No. 64 – Order denying Defendants motion for summary
11 judgment.)

12 Good cause exists to enlarge Defendants' time to file dispositive motions in this matter
13 because: (1) the international pandemic and the State of Nevada's restrictions have made
14 a lot of NDOC employees unavailable; (2) the international pandemic has limited counsel
15 for Defendant access to Rodriguez's documents and NDOC officials; (3) Rodriguez's claims
16 include sensitive religious claims; (4) this Court has denied Defendant's initial motion for
17 summary judgment regarding the defenses of statute of limitations, exhaustion, and
18 qualified immunity which now need additional legal research and time to appropriately
19 respond; and (5) counsel needs additional time to explore all possible defenses; obtain
20 additional updated and new declarations from multiple NDOC personnel; and explore the
21 new NDOC Director's position in this matter in support of their motion for summary
22 judgment.

23 Defendant requests this enlargement of time of forty-five (45) days in good faith,
24 not for the purpose of unnecessary delay, and they do not anticipate any unfair prejudice
25 to Rodriguez if this motion is granted.

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1 **III. PROPOSED SCHEDULE FOR REMAINING DEADLINES**

2 Dispositive motion deadline May 15, 2020

3 Joint pretrial order (if no dispositive motions pending)* June 15, 2020*

4 *Or 30 days after the decision of any pending dispositive motions.

5 **IV. CONCLUSION**

6 Based on the foregoing, Defendant respectfully requests that this Honorable Court
7 grant their motion and allow them an additional forty-five (45) days, or up to and
8 including Friday, May 15, 2020, to file their motion for summary judgment.

9 DATED this 30th day of March, 2020.

10 AARON D. FORD
11 Attorney General

12 By: /s/Harry B. Ward
13 HARRY B. WARD, Bar No. 11317
14 Deputy Attorney General

Attorneys for Defendants

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17 Date: March 31, 2020.

18 IT IS SO ORDERED.

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21 _____
22 UNITED STATES MAGISTRATE JUDGE
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