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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JAMES DALE MOSELEY,

11 Plaintiff,

12 v.

13 DEPARTMENT OF SOCIAL AND
HEALTH SERVICES, et al.,

14 Defendants.
15

CASE NO. 3:17-cv-05427-BHS-JRC

ORDER EXTENDING STAY

16 The District Court has referred this 28 U.S.C. § 1983 action to United States Magistrate
17 Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §§ 636(b)(1)(A)
18 and (B) and local Magistrate Judge Rules MJR3 and MJR 4.

19 Plaintiff initially filed this action *pro se* in June 2017. *See* Dkt. 1. After plaintiff
20 obtained counsel and filed a third amended complaint and defendants filed an answer, the Court
21 entered a pretrial scheduling order, setting the discovery and dispositive motions deadlines.
22 Dkts. 26, 29, 39, 40. The parties then filed an agreed motion to stay discovery. Dkt. 48. They
23 explained that plaintiff had "been suffering from substantial decompensation due to his mental
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1 illness” and was unable to have visitation with his attorney, to be deposed, or to otherwise
2 participate in the discovery process. *See* Dkt. 48, at 1. The parties asked that discovery be
3 stayed until plaintiff could meaningfully engage in discovery and offered to provide status
4 updates every 90 days regarding plaintiff’s condition. *See* Dkt. 48.

5 The Court granted the agreed motion and stayed the case until December 14, 2018. Dkt.
6 49. Upon the parties’ stipulated motion to extend the stay in November 2018, the Court
7 extended the stay until March 29, 2019 and ordered plaintiff’s counsel to file a “status report and,
8 if necessary, another motion to extend the stay on or before March 15, 2019[.]” *See* Dkt. 53, at
9 2.

10 In February 2019, plaintiff’s counsel wrote a letter to update the Court about plaintiff’s
11 status. *See* Dkt. 54. Plaintiff’s counsel stated that although plaintiff had shown some
12 improvement, plaintiff’s mental health problems had worsened. *See* Dkt. 54, at 1. Plaintiff’s
13 counsel wrote that his client could not meaningfully engage in discovery and records review or
14 planning and case evaluation; indeed, he could not even be in the same room as his attorney. *See*
15 Dkt. 54, at 1. In light of plaintiff’s transfer to another institution and his ongoing mental health
16 problems, counsel requested that the stay be extended until at least late August or early
17 September 2019, in order for plaintiff to benefit from 4 to 6 months of additional mental health
18 treatment at the new facility. *See* Dkt. 54, at 2.

19 Defendants filed a motion opposing the request to extend the stay past June 1, 2019, on
20 the basis of potential prejudice to the defense. *See* Dkt. 55, at 1–2. Defendants state that they
21 “may object to additional extensions without a showing and court determination of [plaintiff’s]
22 current incompetency.” Dkt. 55, at 1.

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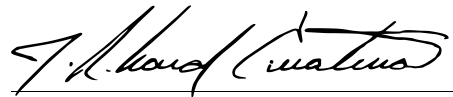
1 Therefore it is ORDERED:

2 (1) The stay in this case is extended until May 31, 2019, the Friday before June 1, 2019;

3 (2) Plaintiff's counsel shall file a status report and, if necessary, another motion to
4 extend the stay on or before May 17, 2019—fourteen days before the stay ends. Plaintiff's
5 counsel's report shall inform the Court whether plaintiff's mental state has improved and
6 whether it is likely that his mental health will improve to a point where he is once again capable
7 of engaging in litigation. Defendants shall file a response on or before May 27, 2019, informing
8 the Court of their position.

9 (3) Should plaintiff's mental health improve sufficiently before May 31, 2019, plaintiff's
10 counsel shall inform the Court and file a motion to lift the stay.

11 Dated this 15th day of April, 2019.

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14 J. Richard Creatura
15 United States Magistrate Judge
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