

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Drumwright v. Huckleberry

Drumwright · No. 1:22-cv-01410-JLT-SKO (PC) · Decided July 9, 2025

OPINION

(PC) Drumwright v. Huckleberry

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 MARQUISE LOUIS DRUMWRIGHT, Case No.: 1:22-cv-01410-JLT-SKO (PC) 12
Plaintiff,

ORDER GRANTING IN PART

13 v. DEFENDANT’S MOTION TO MODIFY

THE DISCOVERY AND SCHEDULING

14 C. HUCKLEBERRY, et al., ORDER 15 Defendants. (Doc. 48) 16 17 Plaintiff is proceeding
pro se and in forma pauperis in this civil rights action pursuant to 18 42 U.S.C. § 1983. The action
proceeds against Defendant G. Gomez for violations of Plaintiff’s 19 First and Eighth Amendment
rights.

20 I. INTRODUCTION

21 On April 9, 2025, the Court issued its Discovery and Scheduling Order. (Doc. 47.) On
22 July 3, 2025, Defendant filed a motion to modify the scheduling order. (Doc. 48.)

23 II. DISCUSSION

24 Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, a scheduling order “may 25 be
modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). This 26 good
cause standard “primarily considers the diligence of the party seeking the amendment.” 27
Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). The court may modify
the scheduling order “if it cannot reasonably be met despite the diligence of the party seeking the
1 extension.” Id. If the party was not diligent, the inquiry should end. Id. 2 Defendant requests the
Court extend the deadline for filing an exhaustion-based summary 3 judgment motion by 125 days
to correspond with the deadline for filing a merits-based summary 4 judgment motion, allowing
for “a joint motion for summary judgment.” (Doc. 48.) Defendant’s 5 motion is accompanied by
the Declaration of Daniel Krasiev-Dvornikov, counsel for Defendant. 6 (Doc. 48-1.) Defense
counsel states he has investigated and researched potential exhaustion 7 defenses following
issuance of the scheduling order, including a review of all relevant records 8 pertaining to

Plaintiff's grievance and appeal history. (Id. at 2, ¶ 3.) On June 30, 2025, defense 9 counsel identified a viable exhaustion defense (id. at 3, ¶ 6), and states he needs additional time to 10 coordinate and finalize the declarations in support of a motion for summary judgment (id. at 2, ¶ 11 3), while handling his other cases. Counsel also anticipates that Plaintiff's deposition will be 12 conducted in late July 2025. (Id.) 13 This Court finds Defendant has established good cause to modify the exhaustion-based 14 summary judgment motion filing deadline and will grant the motion in part. Johnson, 975 F.2d at 15 609. The Court will grant a 75-day extension of the exhaustion-based summary judgment motion 16 filing deadline to allow counsel to file the motion.

17 III. CONCLUSION AND ORDER

18 Accordingly, and for good cause shown, IT IS HEREBY ORDERED that: 19 1. Defendant's motion to modify the scheduling order (Doc. 48) is GRANTED IN 20 PART; and 21 2. The deadline for filing an exhaustion-based summary judgment motion is 22 EXTENDED from July 9, 2025, to Monday, September 22, 2025. No other 23 deadlines are affected by this order. 24 IT IS SO ORDERED. 25 26 Dated: July 8, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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