UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SAM DRAKE,

Plaintiff,

v.

MCCOMAS, *et al.*,

Defendants.

Case No. 1:22-cv-01149-JLT-BAM (PC)

ORDER EXTENDING DEADLINE FOR ALL DEFENDANTS TO FILE RESPONSE TO SECOND AMENDED COMPLAINT

Responsive Pleading Due: Fourteen (14) Days

Plaintiff Sam Drake ("Plaintiff") is a pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This action proceeds on Plaintiff's second amended complaint on the following claims: (1) violation of the First Amendment based on a facial challenge to Fresno County Jail ("FCJ") Policy #E-120 and #E-410 against Defendants Mims, McComas, and Zanoni; (2) violation of the First Amendment based on an as-applied challenge to FCJ Policy #E-120 and #E-410 against Defendants Enriquez, Keoniyom, Nichols, and Snyder; and (3) violation of Due Process for returning Plaintiff's mail against Defendants Enriquez, Keoniyom, Nichols, and Snyder.

Defendants McComas, Enriquez, Mims, Keoniyom, and Nichols filed their answer to the first amended complaint on July 14, 2023. (ECF No. 25.) Thereafter, Plaintiff was permitted to file a second amended complaint to add claims against Defendants Snyder and Zanoni. (ECF Nos. 36, 38, 39.) On June 10, 2024, Defendants Snyder and Zanoni submitted executed waivers

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of service, and their responses to the second amended complaint are currently due on or before June 17, 2024. (*See* ECF No. 43.) Defendants McComas, Enriquez, Mims, Keoniyom, and Nichols have not filed a response to the second amended complaint.

Pursuant to Federal Rule of Civil Procedure 15(a)(3), unless the Court orders otherwise, "any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later." Although the second amended complaint was lodged on September 6, 2023 as a supplemental complaint, (ECF No. 33), it was not filed until November 2, 2023, when the Court granted Plaintiff's motion to file it as an amended complaint, (ECF Nos. 36, 37). The Court then issued findings and recommendations screening the second amended complaint, and those findings and recommendations were adopted on March 25, 2024. (ECF Nos. 38, 39.)

As the procedural posture of this case may have created ambiguity regarding the deadline for the existing defendants to file a response to the second amended complaint, and the Court did not issue an order setting a deadline for such a response, the Court finds it appropriate to grant an extension of this deadline for all defendants.

Accordingly, the deadline for Defendants McComas, Enriquez, Mims, Keoniyom, Nichols, Zanoni, and Snyder to file a response to the November 2, 2023 second amended complaint, (ECF No. 37), is HEREBY EXTENDED to **fourteen (14) days** from the date of service of this order.

IT IS SO ORDERED.

Dated: **June 12, 2024**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE