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 FOR CLERK OF COURT TO FILE PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND TO FILE CERTAIN EXHIBITS TO PLAINTIFF'S OPPOSITION UNDER SEAL

ORDER GRANTING DEFENDANTS' ACCESS TO DOCUMENTS FILED UNDER SEAL AND EXTENDING DEADLINE FOR DEFENDANTS TO RESPOND TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Reply Deadline: January 16, 2026

Plaintiff Sam Drake ("Plaintiff") is a pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 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.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

On October 27, 2025, Defendants' filed a motion for summary judgment. (ECF No. 67.) Following an extension of time, Plaintiff's opposition to the motion for summary judgment was due on or before December 11, 2025. (ECF No. 78.) Plaintiff's opposition, dated December 11, 2025, was received by the Court on December 18, 2025. According to the attached proof of service, the opposition and attached exhibits were not served on Defendants.

Upon review of the received materials, several include photographs that go to the heart of the First Amendment claims raised in this action. As the Court previously discussed in regards to exhibits filed in support of Plaintiff's motion for summary judgment, (ECF No. 74), Defendants appear to take the position that at least some of the attached photographs may include "sexually explicit and obscene material." (*See* ECF No. 71, p. 7.) Plaintiff, on the other hand, contends that the photographs filed in support of his motion for summary judgment and in support of his opposition to Defendants' motion for summary judgment represent the "non obscene innocuous nonnude materials" originally banned pursuant to Defendants' mail policy at issue in this action, and they are necessary evidence in support of his arguments. (*See* ECF No. 69, p. 3.)

As it remains in dispute whether the photographs are obscene or non-obscene material, the Court finds it prudent to file Plaintiff's Exhibits H and I, submitted in support of his opposition to Defendants' motion for summary judgment, under seal until a further determination is made. Plaintiff's Exhibits A, B, C, D, E, F, G, J, P, S, and V will be docketed with no special handling. The Court notes that only cover pages were provided for Exhibits P and S. In addition, despite the missing letters—K through O, Q, R, T, and U—there were no other exhibits filed in support of Plaintiff's opposition brief.

Further, as it appears Defendants were not served with copies of Plaintiff's opposition brief or the supporting exhibits, Defendants, defense counsel, and support staff for defense counsel may view Plaintiff's Exhibits H and I upon request at the Clerk's Office in the Fresno courthouse. As Defendants were previously advised, while they may view the sealed exhibits upon request and will be permitted to view such documents in the lobby area of the Clerk's Office, if they wish to scan or copy the documents they will not have access to the Clerk's Office facilities to do so.

Finally, in light of the delay in docketing Plaintiff's opposition brief and supporting exhibits, as well as the upcoming holidays and related court closures, the Court finds it appropriate to extend the deadline for Defendants to file a reply brief, if any, until **January 16, 2026**. The Court finds that Plaintiff will not be prejudiced by the brief extension granted here.

Accordingly, the Court HEREBY ORDERS as follows:

1. The Clerk of the Court is DIRECTED to FILE Plaintiff's opposition to Defendants' motion for summary judgment, received December 18, 2025, and to process Plaintiff's exhibits in support of his opposition brief, as follows:
    a. Exhibits H and I, shall be filed under seal in support of Plaintiff's opposition to Defendants' motion for summary judgment; and
    b. Exhibits A, B, C, D, E, F, G, J, P, S, and V, shall be docketed in support of Plaintiff's opposition to Defendants' motion for summary judgment with no special handling;
2. Defendants, defense counsel, and support staff for defense counsel may view Plaintiff's Exhibits H and I, filed in support of Plaintiff's opposition to Defendants' motion for summary judgment, upon request at the Clerk's Office in the Fresno courthouse; and
3. On or before **January 16, 2026**, Defendants shall file their reply, if any, to Plaintiff's opposition to Defendants' motion for summary judgment.

IT IS SO ORDERED.

Dated: **December 19, 2025**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE