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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jeremy Pinson,

10 Plaintiff,

11 v.

12 Unknown Party, et al.,

13 Defendants.
14

No. CV-13-02059-TUC-DCB

ORDER

15 Discovery commenced as of May 3, 2019, for three months limited to the Privacy
16 Act Claim added subsequent to remand. The Plaintiffs Eighth Amendment claim is ready
17 for trial.

18 On August 21, 2019, Plaintiff filed a Motion to Compel discovery, without
19 conferring in good faith with Defendant, the Federal Bureau of Prisons (BOP), to obtain
20 the requested discovery without Court intervention as required under Fed. R. Civ. P.
21 37(a)(1). Plaintiff says that due to her incarceration, she cannot call BOP counsel; BOP
22 counsel must set up any legal call. This does not relieve her of the responsibilities under
23 Rule 37. She has other means of communication besides the telephone, such as the mail.

24 In the Response to the Motion to Compel, the BOP points out the failure to comply
25 with Rule 37, which it suggests would not be futile because “many of the BOP’s objections
26 to Pinson’s requests for production were based on the Privacy Act” (Response (Doc. 116)
27 at 2), and says that the disclosures may be made pursuant to a Protective Order. The BOP
28 asks the Court to deny the Motion to Compel and extend the discovery deadline for six

1 weeks to allow the parties to stipulate to a protective order so that the Defendant may
2 produce records, which will in some part resolve the Motion to Compel.

3 **Accordingly,**

4 **IT IS ORDERED** that the Motion to Compel (Doc. 114) is DENIED, without
5 prejudice.

6 **IT IS FURTHER ORDERED** that the Motion for Extension of Time (Doc. 118)
7 is GRANTED as follows: discovery is extended for the sole purpose of resolving the
8 discovery sought by the Plaintiff which is the subject of the Motion to Compel; the
9 dispositive motions deadline is reset to October 24, 2019 and the Joint Pretrial Order due
10 date is reset to November 23, 2019.

11 **IT IS FURTHER ORDERED** that within 7 days of the filing date of this Order,
12 Counsel for BOP shall tender the draft Protective Order to the Plaintiff, who shall have 7
13 days to sign and return it. Discovery pursuant to the Protective Order shall be completed
14 within 7 days of execution of the Protective Order by the parties.

15 **IT IS FURTHER ORDERED** that as to discovery requests that are not covered by
16 the Protective Order, the Defendant shall treat the Motion to Compel (Doc. 114) as
17 Plaintiff's communication to confer in an effort to obtain this discovery without court
18 action. Defendant shall respond, accordingly, to the Plaintiff, and in the event discovery
19 remains disputed and outstanding, the Plaintiff may file a Motion to Compel.

20 Dated this 27th day of September, 2019.

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Honorable David C. Bury
United States District Judge