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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TROAS V. BARNETT,

CASE NO. 1:05-cv-01022-GBC (PC)

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION
TO COMPEL PERSONNEL RECORDS

v.

(Doc. 87)

DAVID NORMAN, et al.,

Defendants.

Troas V. Barnett (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on August 9, 2005. (Doc. 1). On July 20, 2010, the Court issued a Discovery/Scheduling Order establishing a deadline of March 20, 2011, for completion of discovery, including motions to compel, and a deadline of May 31, 2011, for filing pretrial dispositive motions. (Docs. 59, 77). On November 12, 2010, Plaintiff filed a motion to compel production of personnel records from Defendants. (Doc. 87). On December 10, 2010, Defendants filed an opposition. (Doc. 89). On January 18, 2011, Plaintiff filed a reply. (Doc. 95).

Plaintiff is requesting that the Court issue an order requiring Defendants to produce personnel records. However, Plaintiff must first request discovery from Defendants and if Defendants fail to make a disclosure required by Rule 26(a) of the Federal Rules of Civil Procedure, then Plaintiff may seek a motion to compel. See Fed.R.Civ.P. 37(a)(1) and (a)(3)(A). In addition, Plaintiff may request issuance of subpoenas from the Clerk of Court pursuant to Rule 45(a)(3). Plaintiff’s in forma pauperis status will not relieve him from the payment of fees or expenses associated with the

1 subpoenas. *See Tedder v. Odel*, 890 F.2d 210, 211-212 (9th Cir.1989). Plaintiff must first serve the
2 subpoenas, and if the subpoenaed parties do not comply, then Plaintiff may file a motion to compel
3 those parties to comply with the subpoenas.

4 Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motion to compel
5 production of personnel records, filed November 12, 2010, is DENIED. (Doc. 87).

6
7 IT IS SO ORDERED.

8 Dated: June 24, 2011


9 UNITED STATES MAGISTRATE JUDGE