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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 SEAL PHOTOGRAPHS

v.

(Doc. 80)

DAVID NORMAN, et al.,

Defendants.

Plaintiff 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.) This action now proceeds under the Third Amended Complaint, filed on October 30, 2008, against Defendants Martin Gamboa, Angel Duran and Manuel Torres (“Defendants”) for events that occurred at California Substance Abuse Treatment Facility, Corcoran. (Doc. 48). Plaintiff is currently housed at Kern Valley State Prison. 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 file his photographic evidence under seal in fear that the Defendants may confiscate or destroy his photographic evidence. (Docs. 80, 81). In response to a Court order, Defendants filed an opposition on June 9, 2011. (Doc. 101). Plaintiff did not file a reply.

Plaintiff’s request falls under Rule 26(c) of the Federal Rules of Civil Procedure and Plaintiff has failed to demonstrate how the information that Defendants request is protected by some form of

1 privilege that should or should otherwise be shielded from public view or from Defendants.
2 Plaintiff's fear that counsel for Defendants would destroy Plaintiff's evidence is unfounded and thus
3 is an insufficient ground to support his motion. As it appears that Plaintiff is attempting to withhold
4 properly discoverable evidence from the Defendants, Plaintiff is warned that for trial, Plaintiff will
5 not be allowed to use any evidence that was properly requested during discovery that Plaintiff has
6 refused to provide to Defendants. Fed. R. Civ. P. 37(c)(1).

7 Based on the foregoing, Plaintiff's motion to file records under seal is DENIED. (Doc. 80).

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9 IT IS SO ORDERED.

10 Dated: June 24, 2011

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13 UNITED STATES MAGISTRATE JUDGE
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