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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA (Fresno)

Tracy Arthur Stone,
Plaintiff,
vs.
Vasquez and Rodriguez,
Defendants.

No. 1:05-CV-1377-JAT
ORDER

Plaintiff’s Request Number 7 of Plaintiff’s first request for production

In the Order filed September 23, 2009, the Court required Defendants’ counsel to review the confidential portions of Plaintiff’s central file for documents responsive to Plaintiff’s Request Number 7 of Plaintiff’s first request for production.¹ Counsel responded to the Court’s order (Doc. #94) and advised under oath that there are no documents responsive to Plaintiff’s request in the confidential portion of Plaintiff’s central file. Because there are no responsive documents in the confidential portion of Plaintiff’s central file, and because the confidential portion of Plaintiff’s central file was the only outstanding potential discovery avenue still available, the Court will not order any further production relating to Plaintiff’s Request Number 7 of Plaintiff’s first request for production.

¹ Plaintiff requested, “All documents created and produced in the investigation of the CDC 837-A ‘Crime incident Report’ Log No. SATF-05-04-10-0378 including “rough drafts” and reject draft reports, internal memorandum, and notes.” Doc. #54 at 7.

1 **Plaintiff's Request Number 6 of Plaintiff's first request for production**

2 Next, the Court ordered Defendants to respond to Plaintiff's motion for
3 reconsideration (Doc. #89) in which Plaintiff sought reconsideration of this Court's order
4 with regard to Plaintiff's Request Number 6 of Plaintiff's first request for production. In
5 Request No. 6, Plaintiff sought all documents created and produced in the investigation of
6 Plaintiff's administrative grievance. Defendants objected to this request and argued first that
7 they had no responsive documents in their custody and control. Defendants also argued that
8 responsive documents would be available to Plaintiff in his central file. The Court ultimately
9 ordered that the documents being available to Plaintiff in his central file satisfied Federal
10 Rule of Civil Procedure 34. Doc. #81 at 3-4.

11 Plaintiff now moves for reconsideration and argues that none of the documents in his
12 central file are responsive to his request. Doc. #89. Defendants respond and advise that they
13 do not have any responsive documents in their custody and control. Defendants go on to
14 state that they requested documents from the institution on January 7, 2009 that would likely
15 be responsive to Plaintiff's request, but they still have not received any documents. Doc. #94
16 at 2. Based on this response, the Court will sustain Defendants' objection to Plaintiff's
17 Request Number 6 of Plaintiff's first request for production that Defendants do not have
18 responsive documents in their custody and control. Thus, the Court will not order any further
19 production as to this request.

20 **Plaintiff's motion for modified court order**

21 Plaintiff suggests that the Court did not consider his arguments in ruling on the
22 various outstanding discovery issues. The Court previously considered the entire record in
23 this case and has reconsidered Plaintiff's objections, and the Court does not find that any
24 modification of any prior order is necessary.

25 **Conclusion**

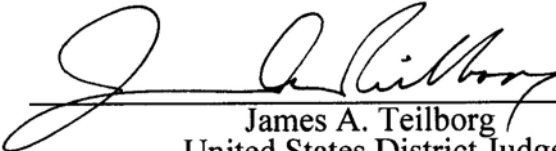
26 Based on the foregoing,

27 **IT IS ORDERED** that Plaintiff's motion for reconsideration (Doc. #89) is denied;

1 **IT IS FURTHER ORDERED** that Plaintiff's motion for a modified court order
2 (Doc. #95) is denied.

3 **IT IS FURTHER ORDERED** that the Court having considered and ruled on all
4 outstanding discovery disputes and requests, discovery is closed. Plaintiff's response to
5 Defendants' pending motion for summary judgment remains due by October 23, 2009.²

6 DATED this 20th day of October, 2009.

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9 James A. Teilborg
United States District Judge

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² See Doc. #90 for complete *Rand* warning.