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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

FRANK GONZALES,

Plaintiff,

vs.

MATTHEW L. CATE, et al.,

Defendants.

CASE No. 1:06-cv-01420-AWI-MJS (PC)

ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S MOTION
FOR (1) INSPECTION AND TESTING
AT PLEASANT VALLEY STATE
PRISON, and (2) A FORTY-FIVE DAY
EXTENSION OF DISCOVERY AND
DISPOSITIVE MOTION DEADLINES

(ECF No. 109)

_____/

Plaintiff Frank Gonzales, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on October 13, 2006 pursuant to 42 U.S.C. § 1983. (ECF No. 1.) The matter proceeds on Plaintiff's third amended complaint (ECF No. 37) against Defendants Lantz, Garrison, Nichols, Deathriage, and Govea for First and Eighth Amendment violations and against Defendants Garza, Franco, Mayes, Cate, Fernando, Marrujo, and Fuentes for a First Amendment violation. (ECF No. 62.)

Pending before the Court is Plaintiff's motion for an order directing the Pleasant Valley State Prison ("PVSP") warden to permit inspection and testing of premises by Plaintiff's agent Crystal M. Moore and for a forty-five day extension of the current discovery and dispositive motion deadlines. (ECF No. 109.) Defendants have

1 responded to the motion.¹ (ECF No. 113.) No reply has been filed. The motion is
2 ready for ruling. Local Rule 230(I).

3 Plaintiff's motion is denied.

4 Plaintiff may not seek inspection and testing of premises other than pursuant to
5 Rule 34 (production/inspection request) or Rule 45 (subpoena) of the Federal Rules of
6 Civil Procedure. Nothing before the Court suggests Plaintiff has sought inspection and
7 testing pursuant to Rules 34 or 45.² He does not, for that matter, suggest what or
8 where he wants inspected, how it should be inspected, or why any such inspection
9 could be relevant to the retaliation, excessive force and medical indifference claims in
10 issue in this action. Nor does he explain why Ms. Moore is qualified to conduct the
11 inspection.

12 Plaintiff also fails to demonstrate good cause, or any reason, for extending the
13 current July 15, 2013 discovery deadline or September 23, 2013 dispositive motion
14 deadline.

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26 ¹ Defendants' response is untimely, Local Rule 230(I), and has not been considered in this ruling.

27 ² Plaintiff's Motion references, but fails to include or attach, a proposed future civil subpoena.

1 Accordingly, for the reasons stated, it is HEREBY ORDERED that Plaintiff's
2 motion seeking an order directing the PVSP warden to permit inspection and testing of
3 premises by Crystal M. Moore and an order for a forty-five day extension of the current
4 discovery and dispositive motion deadlines (ECF No. 109) is DENIED without
5 prejudice.

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14 IT IS SO ORDERED.

15 Dated: July 16, 2013

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE