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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

John E. James,

Plaintiff,

vs.

A.K. Scribner, et al.,

Defendants.

) No. CV 07-880-TUC-RCC

) **ORDER**

_____)

Plaintiff is a prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s Motion for Subpoena Duces Tecum for Third-Party Discovery Requests (Doc. 57); Motion to Compel (Doc. 86); and Motion to Extend Discovery (Doc. 87).

Motion for Subpoena

Plaintiff requests the Court issue a subpoena duces tecum to the California Department of Correction and Rehabilitation (CDCR) and California State Prison Corcoran for documents/items numbered 1-17. Plaintiff seeks documents he previously requested from Defendants in his first and third Requests for Production.

Plaintiff is entitled to seek documentary evidence from third parties via the issuance of a subpoena duces tecum under Federal Rule of Civil Procedure 45, which would be served by the United States Marshal given that Plaintiff is proceeding in forma pauperis. Directing

1 the Marshal's Office to expend its resources personally serving a subpoena is not taken
2 lightly by the Court. Plaintiff must describe the documents he is seeking and specify from
3 whom he is seeking the documents. Upon review of Defendants' responses to Plaintiff's
4 requests for production, the Court finds that Plaintiff's motion amounts to a fishing
5 expedition. Defendants have already produced documents responsive to Plaintiff's requests,
6 made objections to his requests, or notified Plaintiff that they have no knowledge of the
7 existence of the items/documents Plaintiff requested. If Plaintiff is unsatisfied with
8 Defendants' responses to his request for productions, the proper avenue for him to pursue is
9 to file a motion to compel with the Court that complies with the guidelines stated in this
10 Court's June 28, 2010 Order (Doc. 81). Therefore, Plaintiff's motion will be denied.

11 Motion to Compel

12 In Plaintiff's Motion to Compel, he requests a Court Order allowing him to view an
13 unedited copy of the June 20 , 2005 "video tape interview concerning his allegation of
14 excessive force." Defendants responded that any problems with the version of the tape that
15 Plaintiff viewed has been resolved. They attached to their response the chrono documenting
16 that Plaintiff had viewed the tape as was satisfied with his viewing. Therefore, Plaintiff's
17 Motion will be denied as moot.

18 Motion to Re-Open Discovery

19 In this motion, Plaintiff requests the Court re-open discovery for a period of 2 months
20 in order to give him time to filed a renewed motion to compel and motion to supplement
21 complaint. The Court will give Plaintiff and additional 15 days in which to conduct
22 discovery.

23 Based on the foregoing,

24 **IT IS HEREBY ORDERED:**

25 (1) Plaintiff's Motion for Subpoena Duces Tecum (Doc. 57) is **denied**.

26 (2) Plaintiff's Motion to Compel (Doc. 86) is **denied as moot**.


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28 (3) Plaintiff's Motion to Re-Open Discovery (Doc. 87) is **granted in part**. Plaintiff

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shall have 15 days from receipt of this Order to conduct any additional discovery.

DATED this 31st day of August, 2010.



Raner C. Collins
United States District Judge