

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

LON CARTER,

Plaintiff,

v.

NICK DAWSON, et al.,

Defendants.

CASE NO. 1:07-cv-01325-OWW-SMS

ORDER DENYING PLAINTIFF’S MOTION TO FILE A SUPPLEMENTAL MOTION TO COMPEL, MOTION FOR PERMISSION TO FILE JUDICIAL NOTICE, AND MOTION FOR JUDICIAL NOTICE

(ECF Nos. 111, 112, 113, 114)

Plaintiff Lon Carter is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint in this action on September 11, 2007. (ECF No. 1.) On January 30, 2009, the Magistrate Judge issued an order finding that Plaintiff had stated a cognizable claim against Defendants Dawson and Mendoza-Powers for policies creating unconstitutional conditions of confinement in violation of the Eighth Amendment. (ECF No.6.) On May 10, 2011, the undersigned issued an order denying Plaintiff’s motions to compel. (ECF No. 105.) On July 18, Plaintiff filed a motion to file a subsequent motion to compel, motion to file a notice of judicial facts, and request for judicial notice. (ECF Nos. 111, 112, 113). On August 8, 2011, Defendants filed an opposition to Plaintiff’s motion for judicial notice. (ECF No. 114.)

Prior to being assigned to the undersigned, this action has been handled by several different Magistrate Judges. Accordingly, the Court finds it necessary to review the documents filed in this action in order to clarify the claims that were found to be cognizable at screening. Upon review of the complaint and screening order issued January 30, 2009, this action is proceeding against Defendant Mendoza Powers for failing to provide hot water for two months, and Defendant Dawson

1 for failing to provide adequate inspections and cleaning supplies in violation of the Eighth  
2 Amendment.

3 Plaintiff moves to file a supplemental motion to compel due to the recent United States  
4 Supreme Court decision mandating the reduction of the California prison population<sup>1</sup>. The discovery  
5 Plaintiff seeks is not relevant to the claims found to be cognizable in this action., nor is it reasonably  
6 calculated to lead to the discovery of admissible evidence. Fed. R. Civ. P. 26(b)(1). Accordingly,  
7 Plaintiff's motion to file a supplemental motion to compel and requests for judicial notice are  
8 HEREBY DENIED.

9  
10  
11 IT IS SO ORDERED.

12 Dated: August 17, 2011

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28 

---

<sup>1</sup>The Court is aware that in the order issued May 5, 2011, the Court did not find that the discovery requested was irrelevant. However upon further review of the complaint, the Court finds that in the order denying Plaintiff's motion to compel, the Court failed to clarify the claims that were proceeding in this action.