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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GARRISON S. JOHNSON,

Plaintiff,

v.

JOHN DOVEY, et al.,

Defendants.

CASE NO. 1:08-cv-00640-LJO-DLB PC

ORDER REQUIRING NON-PARTY CDCR
TO RESPOND TO PLAINTIFF’S MOTION

(DOC. 152)

ORDER DENYING PLAINTIFF’S MOTION

(DOC. 154)

_____ /

Plaintiff Garrison S. Johnson (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Dunnahoe, V. Ybarra, Cunningham, Medrano, Holguin, Valasquez, G. Ybarra, Curliss, J. Gonzales, and K. Powell on claims of excessive force, inhumane conditions of confinement, retaliation, and state law claims.

On March 9, 2011, the Court directed the United States Marshal to serve subpoenas duces tecum on CDCR and Matthew Stainer, acting warden of California Correctional Institution, where the events giving rise to this action occurred. CDCR and Mr. Stainer were to respond to the subpoenas. Doc. 118. On November 7, 2011, the Court granted Plaintiff’s motion to compel against non-party CDCR to produce the documents. Doc. 146. On December 12, 2011, the Court granted CDCR’s motion for a protective order. Doc. 149.

Pending before the Court is: 1) Plaintiff’s motion for sanctions against non-party CDCR, filed January 6, 2012, and 2) Plaintiff’s motion regarding the protective order, filed January 20,

1 2012. Docs. 152, 154.

2 **A. January 6, 2012 Motion**

3 In Plaintiff's January 6, 2012 motion, Plaintiff contends that CDCR did not produce the
4 documents commanded by the Court. CDCR had filed a motion requesting an extension of time
5 to produce the records on January 3, 2012. Doc. 150. Plaintiff did not receive that motion until
6 after he had filed his motion for sanctions. However, Plaintiff contends that he did not receive
7 all the documents that CDCR was ordered to produce, listing documents A(3), A(3), A(7), A(8),
8 (A10), B(1), and B(5), as listed in the Court's December 12, 2011 Order. Doc. 156. The Court
9 will require CDCR to respond to this motion. Plaintiff will be provided an opportunity to reply.

10 **B. January 20, 2012 Motion**

11 In Plaintiff's January 20, 2012 motion, Plaintiff disputes the applicability of the
12 protective order on documents A(1), A(2), A(5), and A(9). Pl.'s Mot. 2:9-28, Doc. 154. Plaintiff
13 seeks a copy of all the documents. Plaintiff contends that none of these documents are
14 confidential and should be provided to Plaintiff for his possession.

15 Regarding Document A(5), the copy that Plaintiff viewed was redacted. However,
16 Plaintiff is in possession of an unredacted copy. The Court finds such a motion frivolous.
17 CDCR is not required to produce a document that Plaintiff already possesses, as such production
18 is wasteful. Fed. R. Civ. P. 26(b)(2)(C)(i) (court must limit extent of discovery if discovery can
19 be obtained from some other, more convenient source).

20 Regarding the other documents, the Court does not find it necessary to lift the protective
21 order as to those documents. Plaintiff may still inspect such documents, and is not prohibited
22 from access to these documents for trial. Plaintiff has not demonstrated substantial prejudice by
23 not having immediate possession of these documents.

24 **C. Conclusion And Order**

25 Based on the foregoing, it is HEREBY ORDERED that:

- 26 1. CDCR is ordered to file a response to Plaintiff's January 6, 2012 motion within
27 twenty-one (21) days from the date of service of this order;
- 28 2. Plaintiff is provided seven (7) days from the date of service of CDCR's response

1 in which to file a reply, if any;

2 3. Plaintiff's January 20, 2012 motion is denied as unnecessary.

3 IT IS SO ORDERED.

4 **Dated: March 14, 2012**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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