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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TIMOTHY FENSTERMACHER,

CASE NO. 1:08-cv-01447-SKO PC

Plaintiff,

ORDER DENYING MOTIONS

v.

(Docs. 32, 33, 34)

SAMUEL MORENO, et al.,

and

Defendants.

ORDER DIRECTING DEFENDANTS TO FILE
OPPOSITION OR STATEMENT OF NON-
OPPOSITION TO PLAINTIFF’S JULY 19, 2010
MOTION

_____ /

Plaintiff Timothy Fenstermacher (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Before the Court are four motions from Plaintiff.

On March 2, 2010, Plaintiff filed a motion entitled “Formal Request for Service of Summons and Complaint by U.S. Marshal.” (Doc. #32.) Plaintiff requests the Court to order the U.S. Marshall to serve Defendants Samuel Moreno and Ruben Robles (“Defendants”) with a summons and a copy of Plaintiff’s complaint. Plaintiff also filed a motion requesting an extension of time to effect service of process on Defendants. (Doc. #33.) On March 24, 2010, Plaintiff filed a motion requesting the Court to order U.S. Marshals to effect personal service on Defendants. (Doc. #34.) Since Plaintiff filed these motions, both Defendants have been served and made appearances in this action. Plaintiff’s motions will be denied as moot.

1 On July 19, 2010, Plaintiff filed a motion requesting the Court to order California
2 Department of Corrections and Rehabilitation officials to disclose the personnel records of
3 Defendants Moreno and Robles. (Doc. #44.) Plaintiff claims that he attempted to obtain, through
4 discovery, various documents and videotapes concerning the excessive use of force alleged in his
5 complaint. Plaintiff further alleges that Defendants refused to produce the documents and
6 videotapes, claiming that they are privileged.

7 Defendants have not filed an opposition to Plaintiff's motion. The Court will construe
8 Plaintiff's motion as a motion to compel and will order Defendants to file an opposition or statement
9 of non-opposition to Plaintiff's motion to compel within thirty (30) days of the date of service of this
10 order.

11 Accordingly, it is HEREBY ORDERED that:

- 12 1. Plaintiff's March 2, 2010 motion requesting service is DENIED as moot;
- 13 2. Plaintiff's March 2, 2010 motion requesting an extension of time is DENIED as
14 moot;
- 15 3. Plaintiff's March 24, 2010 motion requesting service is DENIED as moot; and
- 16 4. Defendants shall construe Plaintiff's July 19, 2010 motion as a motion to compel and
17 file an opposition or statement of non-opposition to the motion within thirty (30)
18 days of the date of service of this order.

19
20 IT IS SO ORDERED.

21 **Dated:** September 15, 2010

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE