UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LOUIS BRANCH,	1:08-cv-01655-AWI-GSA-PC
Plaintiff,	ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION OF MAGISTRATE JUDGE'S ORDER ISSUED ON AUGUST 7, 2014
vs.	
N. GRANNIS, et al.,	(Doc. 137.)
Defendants.	

I.   BACKGROUND

Louis Branch ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on July 7, 2008. (Doc. 1.) This action now proceeds on the Third Amended Complaint, filed by Plaintiff on July 10, 2013, against defendants Umphenour, Szalai, and Alvarez ("Defendants") for deliberate indifference to a serious risk to Plaintiff's safety in violation of the Eighth Amendment, and against defendant Umphenour for retaliation in violation of the First Amendment. (Doc. 94.)

On October 21, 2013 and February 21, 2014, the court issued Scheduling Orders establishing pretrial deadlines, including a June 21, 2014 deadline to complete discovery, and a September 2, 2014 deadline for the filing of pretrial dispositive motions. (Docs. 109, 120.) The discovery deadline is now expired.

On August 25, 2014, Plaintiff filed a Motion for Reconsideration by the District Judge of the Magistrate Judge's order issued on August 7, 2014, in this case. (Doc. 137.)

II. REQUEST FOR RECONSIDERATION BY DISTRICT JUDGE

Local Rule 303 provides that "[a] party seeking reconsideration of the Magistrate Judge's ruling shall file a request for reconsideration by a Judge . . . specifically designat[ing] the ruling, or party thereof, objected to and the basis for that objection. This request shall be captioned 'Request for Reconsideration by the District Court of Magistrate Judge's Ruling.'" Local Rule 303(c). "The standard that the assigned Judge shall use in all such requests is the 'clearly erroneous or contrary to law' standard set forth in 28 U.S.C. § 636(b)(1)(A)." Local Rule 303(f).

Plaintiff seeks reconsideration of the Magistrate Judge's order issued on August 7, 2014, in this case, which denied in part Plaintiff's motion to compel. Specifically, Plaintiff argues that the Magistrate's finding that this action is not proceeding on a claim concerning the "policy and custom of retaliation" is erroneous, and therefore the court should reconsider its decision denying the motion to compel Defendants to produce documents pursuant to Plaintiff's Requests for Production of Documents Nos. 34, 36, 38, and 39.

Discussion

Plaintiff is directed to the court's September 16, 2013 screening order, which found that this case now proceeds with the Third Amended Complaint, only "against defendants Umphenour, Szalai, and Alvarez for deliberate indifference to a serious risk to Plaintiff's safety in violation of the Eighth Amendment, and against defendant Umphenour for retaliation in violation of the First Amendment." (Doc. 103 at 11:19-25.) With respect to Plaintiff's retaliation claim, the court found that "Plaintiff's allegations that Defendant Umphenour told him he would be 'dealt with' for making a false allegation against an officer and then failing to intervene while Plaintiff was attacked by an inmate are sufficient to state a cognizable claim against Defendant Umphenour for retaliation. However, Plaintiff fails to state any other cognizable claims for retaliation." (Id. at 10:18-21.) Therefore, Plaintiff's retaliation claim proceeds only against defendant Umphenour for failing to intervene during an attack on

Plaintiff. Thus, this case is not presently proceeding on any claim concerning the "policy and custom of retaliation."

The Court does not find the Magistrate Judge's order of August 7, 2014 be clearly erroneous or contrary to law under the standard set forth in 28 U.S.C. § 636(b)(1)(A). Therefore, Plaintiff's motion for reconsideration shall be denied.

III.   CONCLUSION

Based on the foregoing, IT IS HEREBY ORDERED that   Plaintiff's   request   for reconsideration, filed on August 25, 2014, is DENIED.

IT IS SO ORDERED.

Dated: October 30, 2014   _____

SENIOR DISTRICT JUDGE