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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

IVAN RAY CARTER, JR.,

Plaintiff,

v.

A. FERNANDEZ, et al.,

Defendants.

CASE NO. 1:08-CV-01841-AWI-DLB PC

ORDER DISREGARDING PLAINTIFF’S  
MOTION FOR EXTENSION OF TIME TO  
FILE MOTION TO COMPEL AS MOOT  
(DOC. 70)

ORDER DENYING PLAINTIFF’S MOTION  
TO COMPEL (DOC. 75)

Plaintiff Ivan Ray Carter, Jr. (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). This action is proceeding against Defendants A Fernandez, R. Reynaga, H. Carrillo, L. Ceasear, and Darren Jones for violation of the Eighth Amendment. Pending before the Court is: 1) Plaintiff’s motion for extension of time to file a motion to compel, filed October 1, 2010, and 2) Plaintiff’s motion to compel. Docs. 70, 75.

**I. Motion For Extension of Time**

Plaintiff filed a motion for extension of time to file a motion to compel. The Court adjudicated Plaintiff’s other motions to compel on October 22, 2010, and granted Plaintiff leave to file a motion to compel regarding his second request for production of documents only. Plaintiff subsequently filed a motion to compel on November 1, 2010. Thus, Plaintiff’s motion for extension of time is HEREBY DISREGARDED as moot. The Court will now address Plaintiff’s motion to compel.

**II. November 1, 2010 Motion To Compel**

Plaintiff seeks further response to his second request for production of documents.

1 Defendants did not file any opposition. The matter is submitted pursuant to Local Rule 230(1).  
2 Plaintiff contends that Defendants should be compelled to respond to Plaintiff's discovery  
3 requests. Plaintiff attaches Defendants' responses to his motion.

4 **Request No. 1:** "Produce and relinquish the documents of policy and procedurs [sic]  
5 related to excessive use of force, per departmental Operational Manual  
6 'DOM'."

7 Defendants responded by stating that they had previously produced all responsive documents in  
8 their possession, custody, or control. As there was no showing by Plaintiff that Defendants have  
9 not responded with responsive documents, Plaintiff's motion to compel further response to  
10 Request For Production No. 1 is denied.

11 **Request No. 2:** "Produce and relinquish any and all statements/incident reports written by  
12 participants and/or non-participants in the excessive use of force Dated:  
13 April 13, 2007."

14 Defendants responded by stating that they had previously produced all responsive documents in  
15 their possession, custody, or control. As there was no showing by Plaintiff that Defendants have  
16 not responded with responsive documents, Plaintiff's motion to compel further response to  
17 Request For Production No. 2 is denied.

18 **Request No. 3:** "Produce and relinquish unredacted and unedited disc's related to Date:  
19 April 14, 2007 and Date: July 21, 2007."

20 Defendants responded by stating that Plaintiff's request is vague, ambiguous, and unintelligible  
21 as drafted. The Court agrees. It is unclear what discs Plaintiff refers to, and what their relevance  
22 is to this action. It is Plaintiff's burden as the movant to demonstrate what grounds he has to  
23 compel further response from Defendants. As Plaintiff has not done so, Plaintiff's motion to  
24 compel further response to Request For Production No. 3 is denied.

25 **Request No. 4:** "Produce and relinquish unredacted and unedited yard tape Date: April 13,  
26 2007."

27 Defendants responded by stating that they do not have any responsive documents in their  
28 possession, custody or control. Defendants also contend that Plaintiff's request is vague,

1 ambiguous, and unintelligible as drafted. The Court agrees that the request is vague as to what  
2 Plaintiff seeks produced. It is unclear what yard tape Plaintiff seeks and what the relevance of  
3 these tapes is to this action. It is Plaintiff's burden as the movant to demonstrate what grounds  
4 he has to compel further response from Defendants. As Plaintiff has not done so, Plaintiff's  
5 motion to compel further response to Request For Production No. 4 is denied.

6 Request No. 5: "Produce and relinquish any policy & procedures that correctional staff  
7 was following on April 13, 2007, during the excessive use of force."

8 Defendants contend that this request is vague, ambiguous, overly broad, and argumentative. The  
9 Court agrees that the request is argumentative and overbroad as to what Plaintiff seeks. Plaintiff  
10 has not explained what grounds he has to compel further response from Defendants. As Plaintiff  
11 has not done so, Plaintiff's motion to compel further response to Request For Production No. 5 is  
12 denied.

13 Request No. 6: "Produce and relinquish all CDC - 7219 related to excessive use of force  
14 on April 13, 2007."

15 Defendants contend that they had previously propounded their responses to Plaintiff. As there  
16 was no showing by Plaintiff that Defendants have not responded with responsive documents,  
17 Plaintiff's motion to compel further response to Request For Production No. 6 is denied.

### 18 **III. Conclusion**

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

- 20 1. Plaintiff's motion for extension of time to file a motion to compel, filed October  
21 1, 2010, is DISREGARDED as moot; and
- 22 2. Plaintiff's motion to compel, filed November 1, 2010, is DENIED.

23  
24 IT IS SO ORDERED.

25 **Dated: February 1, 2011**

25 /s/ Dennis L. Beck  
26 UNITED STATES MAGISTRATE JUDGE