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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PATRICK KUNKEL,

Plaintiff,

v.

N. DILL, et al.,

Defendants.

CASE NO. 1:09-cv-00686-LJO-SMS PC

ORDER GRANTING PLAINTIFF’S MOTION FOR RECONSIDERATION AND DENYING PLAINTIFF’S MOTION TO COMPEL PRODUCTION

(ECF No. 125)

This action is proceeding on Plaintiff’s First Amended Complaint, filed October 8, 2009, against Defendants Garcia, Mendoza, Araich, Mackey, Robaina, Dileo, Dill, Pfeiffer, Ali, and Zamora for the violation of Plaintiff’s rights under the Eighth Amendment. On September 7, 2011, an order issued granting in part and denying in part Plaintiff’s motion to compel. (ECF No. 123.) On September 21, 2011, Plaintiff filed a motion for reconsideration of the order. (ECF No. 125.)

Plaintiff is requesting the Court reconsider the denial of his motion to compel his request for production of the appeal tip book. The Magistrate Judge found that “[t]he complaint did not allege the denial of appeals and therefore such evidence is irrelevant to the claims in this action. Even assuming some marginal relevance, the Court fails to see how the tip book is reasonably likely to lead to the discovery of admissible evidence.” (Order Granting in Part and Denying in Part Plaintiff’s Motion to Compel 6:10-13, ECF No. 122.)

Plaintiff argues that the appeals tip book is relevant because Defendant Pfeiffer is the appeal coordinator and illegally denied Plaintiff’s appeals. Even if the complaint alleges that Defendant Pfeiffer denied Plaintiff’s appeals the Court fails to see how the tip book is relevant to the denial of

1 Plaintiff's appeals by Defendant Pfeiffer. The Court fails to find that the tip book is likely to lead
2 to the discovery of admissible evidence.

3 Accordingly, Plaintiff's motion for reconsideration is granted and Plaintiff's motion to
4 compel production of the tip book is DENIED.

5 IT IS SO ORDERED.

6 **Dated: September 29, 2011**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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