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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES R. WILLIS, 1:09-cv-01703-AWI-GSA-PC
Plaintiff, ORDER DENYING MOTION TO
SCHEDULE DISCOVERY
v. (Doc. 41.)
HARLEY G. LAPPIN, et al.,
Defendants.

James R. Willis (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on September 28, 2009. (Doc. 1.) This action now proceeds on the Third Amended Complaint filed on July 8, 2011, against defendant United States of America for negligence under the Federal Tort Claims Act, and defendants Dennis Smith (Warden), Belinda Avalos (Associate Warden), Lt. Cobb, Lt. Paul, Unit Managers Devere and Bowles, Case Manager Liwag, and Carolyn Gant (Associate Warden) for failure to protect Plaintiff under the Eighth Amendment. (Doc. 24.)

On May 21, 2012, Plaintiff filed a motion for the Court to schedule discovery in this action. (Doc. 41.)

The Court will issue a scheduling order setting a schedule for discovery after defendants have filed an Answer to the complaint. Defendants have not yet responded to the complaint. Therefore, Plaintiff’s motion is premature and shall be denied.

1 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the Court to schedule
2 discovery in this action, filed on May 21, 2012, is DENIED.

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IT IS SO ORDERED.

Dated: June 4, 2012

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE