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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KEVIN DARNELL BRYANT,  
Plaintiff,  
v.  
GALLAGHER, et al.,  
Defendants.

1:11-cv-00446-LJO-BAM (PC)

ORDER REQUIRING THAT DEFENDANTS  
FILE A RESPONSE TO PLAINTIFF'S  
MOTION FOR AN ORDER TO SHOW CAUSE  
(ECF No. 199)

Plaintiff Kevin Darnell Bryant ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on March 17, 2011. This action currently proceeds against Defendant Romero for deliberate indifference to serious medical needs in violation of the Eighth Amendment, and against Defendants Gallagher and Romero for conspiracy, retaliation in violation of the First Amendment, and failure to protect in violation of the Eighth Amendment.

The parties are currently briefing Plaintiff's motion for summary judgment. (ECF No. 176.). In the meantime, on June 29, 2015 Plaintiff filed a motion for an order to show cause. (ECF No. 199). In his motion for an order to show cause, Plaintiff alleges that "digital audio"

1 recordings related to certain events at issue in his case have been spoliated. Specifically, he  
2 alleges that he requested during discovery in this case recordings that he knows were made, but  
3 was told do not exist, and that he suspects have been destroyed when they should have been  
4 preserved. (Id. at pp. 2-8). Plaintiff submitted a declaration in conjunction with this motion,  
5 declaring that he was present when these recordings were made, observed the recording device or  
6 devices, and previously listened to portions of the recordings, ensuring that the events were  
7 actually recorded. (Bryant Decl. ¶¶ 4-12, ECF No. 199.) Plaintiff seeks as a sanction for the  
8 alleged spoliation of evidence that summary judgment be entered against Defendants on all  
9 claims.

10 Neither Defendant Gallagher nor Defendant Romero has filed a response to Plaintiff's  
11 motion for an order to show cause. Accordingly, Defendants Gallagher and Romero are  
12 HEREBY DIRECTED to file an opposition or statement of non-opposition to the motion within  
13 twenty-one (21) days.

14 IT IS SO ORDERED.

15 Dated: August 7, 2015

16 /s/ Barbara A. McAuliffe  
17 UNITED STATES MAGISTRATE JUDGE  
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