

1
2
3
4
5 **UNITED STATES DISTRICT COURT**

6 EASTERN DISTRICT OF CALIFORNIA
7

8 OSCAR MARSHALL,

9 Plaintiff,

10 v.

11 PAM AHLIN, et al.,

12 Defendants.

13 Case No. 1:11-cv-01908 LJO DLB PC

14 ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL AND MOTION IN
SUPPORT OF FURTHER DISCOVERY
[ECF Nos. 31, 36]

15 ORDER GRANTING PLAINTIFF'S MOTION
FOR EXTENSION OF TIME TO FILE
OPPOSITION TO MOTION FOR SUMMARY
JUDGMENT
[ECF No. 34]

16 Plaintiff Oscar Marshall ("Plaintiff") is a civil detainee in the custody of the California
17 Department of Mental Health, detained pursuant to California's Sexually Violent Predator Act
18 ("SVPA"), Cal. Welf. & Inst. Code § 6600 et seq. This action is proceeding on Plaintiff's complaint
19 filed on November 16, 2011, against Defendants F. Moreno and R. Medina for violation of the
20 Fourth Amendment and excessive force in violation of the Due Process Clause of the Fourteenth
21 Amendment. Defendant filed an answer to the complaint on January 22, 2014, and the Court issued
22 a scheduling order on January 27, 2014. Pursuant to the Court's scheduling order, the deadline for
23 completion of discovery was June 23, 2014.

24 On August 7, 2014, Plaintiff filed a motion to compel discovery. Defendants filed a motion
25 for summary judgment on August 18, 2014. On September 12, 2014, Plaintiff filed a motion to
26 extend time to file an opposition to the motion for summary judgment. Defendants filed an
27 opposition to Plaintiff's motion on October 9, 2014. On October 30, 2014, Plaintiff filed a motion in
28 support of further discovery, extension of time, and denial of Defendants' motion for summary
judgment.

1 **I. Motion to Compel**

2 A. Legal Standard

3 Parties may obtain discovery regarding any nonprivileged matter that is relevant to any
4 party's claim or defense, and for good cause, the Court may order discovery of any matter relevant
5 to the subject matter involved in the action. Fed. R. Civ. P. 26(b)(1) (quotation marks omitted).
6 Relevant information need not be admissible at the trial if the discovery appears reasonably
7 calculated to lead to the discovery of admissible evidence. Id. (quotation marks omitted).
8 Generally, if the responding party objects to a discovery request, the party moving to compel bears
9 the burden of demonstrating why the objections are not justified. See, e.g., Grabek v. Dickinson,
10 2012 WL 113799, at *1 (E.D. Cal. 2012). This requires the moving party to inform the Court which
11 discovery requests are the subject of the motion to compel, and, for each disputed response, why the
12 information sought is relevant and why the responding party's objections are not meritorious. Id., at
13 *1.

14 However, the Court is vested with broad discretion to manage discovery and notwithstanding
15 these procedures, Plaintiff is entitled to leniency as a pro se litigator. Therefore, to the extent
16 possible, the Court endeavors to resolve the motion to compel on its merits. Hunt v. County of
17 Orange, 672 F.3d 606, 616 (9th Cir. 2012); Surfvivor Media, Inc. v. Survivor Productions, 406 F.3d
18 625, 635 (9th Cir. 2005); Hallett v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002).

19 B. Analysis

20 Plaintiff filed his motion to compel on August 7, 2014. As noted above, the deadline for
21 filing said motion was June 23, 2014, and Plaintiff did not previously seek an extension of time.
22 Therefore, the motion must be denied as untimely. In addition, Defendants state they have provided
23 Plaintiff with his entire medical record and over 100 pages of additional discovery, and Plaintiff
24 failed to state what additional discovery was needed. Accordingly, Plaintiff's motion to compel is
25 DENIED.

26 **II. Motion for Extension of Time to File Opposition to Motion for Summary Judgment**

27 On September 12, 2014, Plaintiff filed a request for an extension of time to file his opposition
28 to Defendants' motion for summary judgment. Defendants filed an opposition to the request for an

1 extension on October 9, 2014. Plaintiff did not file a reply.

2 Plaintiff states his motion to compel is pending, and he requests an extension until such time
3 that the motion is decided. As discussed above, the motion to compel is denied. Plaintiff will be
4 granted an extension of fourteen (14) days to file his opposition to the motion for summary
5 judgment.

6 **III. Motion in Support of Plaintiff's Motion for Extension of Time and Further Discovery**

7 On October 30, 2014, Plaintiff filed a motion in support of further discovery, extension of
8 time, and denial of Defendants' motion for summary judgment. Plaintiff states further discovery is
9 needed pursuant to his motion to compel. He argues that Defendants' motion for summary judgment
10 must be denied until such time as discovery is complete.

11 As discussed above, the motion to compel is untimely. Discovery closed on June 23, 2014,
12 and Plaintiff did not timely seek an extension of time. Plaintiff's motion in support of further
13 discovery and extension of time is therefore DENIED. In addition, the Court finds no basis on
14 which to grant Plaintiff's motion to deny Defendants' motion for summary judgment.

15 **ORDER**

16 Accordingly, IT IS HEREBY ORDERED that:

17 1) Plaintiff's motion to compel is DENIED;
18 2) Plaintiff's motion for extension of time is GRANTED. Plaintiff may file an opposition to
19 Defendants' motion for summary judgment within fourteen (14) days of the date of service of this
20 order; and
21 3) Plaintiff's motion in support of further discovery and to deny Defendants' motion for
22 summary judgment is DENIED.

23
24 IT IS SO ORDERED.

25 Dated: December 2, 2014

26 /s/ Dennis L. Beck
27 UNITED STATES MAGISTRATE JUDGE
28