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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DWAYNE MEREDITH,
Plaintiff,
v.
D. OVERLY, et al.,
Defendants.

Case No. 1:12-cv-0455-LJO-MJS (PC)

ORDER:

- (1) DENYING PLAINTIFF'S MOTION TO SUBPOENA WITNESSES (ECF No. 57); AND**
- (2) DENYING PLAINTIFF'S MOTION TO SUBMIT EVIDENCE (ECF No. 58)**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 28 U.S.C. § 1983. (ECF Nos. 5 & 8.) The action proceeds against Defendants Benevidez, Gamboa, and Overly on Plaintiff's Eighth Amendment conditions of confinement claim. (ECF No. 9.)

Before the Court are Plaintiff's June 9, 2014 motion to subpoena witnesses (ECF No. 57) and motion to submit evidence (ECF No. 58).

I. MOTION TO SUBPOENA WITNESSES

Plaintiff has moved to identify the witnesses he intends to call at trial. (ECF No. 57.)

Trial in this case is not yet scheduled. The Court soon will issue a second scheduling order that sets a trial date and advises Plaintiff of the procedures for

1 obtaining the attendance of witnesses at trial. Plaintiff's motion to subpoena witnesses
2 will be denied without prejudice to Plaintiff bringing a motion in conformance with the
3 requirements set out in the second scheduling order.

4 **II. MOTION TO SUBMIT EVIDENCE**

5 Plaintiff seeks to introduce additional evidence to support his complaint. (ECF
6 No. 58.)

7 Plaintiff is advised that the court cannot serve as a repository for the parties'
8 evidence (i.e., prison or medical records, affidavits, etc.). The parties may not file
9 evidence with the court until the course of litigation brings the evidence into question
10 (for example, on a motion for summary judgment, at trial, or when requested by the
11 court). Presently, no motions for summary judgment are before the Court, and no trial
12 date has been set. Therefore, Plaintiff's motion to submit evidence will be denied.

13 **III. ORDER**

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

- 15 1. Plaintiff's motion to subpoena witnesses (ECF No. 57) is DENIED without
16 prejudice; and
- 17 2. Plaintiff's motion to submit evidence (ECF No. 58) is DENIED.

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19 IT IS SO ORDERED.

20 Dated: January 6, 2015

21 /s/ Michael J. Seng
22 UNITED STATES MAGISTRATE JUDGE
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