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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ERIC WHEELER,	)	1:12cv00861 LJO DLB PC
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF’S
	)	MOTION TO ORDER PRODUCTION
vs.	)	OF VIDEO
	)	
ALISON, et al.,	)	(Document 200)
	)	
Defendants.	)	

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Plaintiff Eric Wheeler (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s complaint, filed on May 25, 2012.

Discovery closed on November 19, 2014.

On December 5, 2014, Defendant Mui filed a motion for summary judgment. The motion is fully briefed and is awaiting decision.

The remaining Defendants filed their motion for summary judgment on January 20, 2015.

1 On January 9, 2015, Plaintiff filed a motion requesting that this Court order Defense  
2 Counsel R. Lawrence Bragg<sup>1</sup> to produce an “excessive force video dated January 24, 2011.”  
3 ECF No. 200, at 1. Plaintiff requests that the Court review the video *in camera* as evidence in  
4 support of his January 20, 2015, opposition to Defendant Mui’s motion for summary judgment.  
5

6 The instant motion is not a Rule 56(d) motion, as there is no indication that Plaintiff was  
7 unable to adequately oppose the motion for summary judgment. Indeed, Plaintiff makes no such  
8 argument. Plaintiff’s opposition is 43 pages in length, and includes over 140 pages of exhibits.

9 Rather, it appears that Plaintiff simply wants the Court to view the video in conjunction  
10 with his opposition. At this time, however, it is unclear how the actual video would be relevant  
11 to the resolution of Defendant Mui’s motion for summary judgment. The allegations against  
12 Defendant Mui are limited to treatment rendered at Mercy Hospital *after* the excessive force  
13 incident. The actual excessive force incident is irrelevant to whether Defendant Mui was  
14 deliberately indifferent to Plaintiff’s serious medical need. Rather, that determination will turn  
15 on the information Defendant Mui had at the time of Plaintiff’s treatment.

16 Plaintiff’s motion is therefore DENIED.

17  
18 IT IS SO ORDERED.

19 Dated: February 11, 2015

20 /s/ Dennis L. Beck  
21 UNITED STATES MAGISTRATE JUDGE  
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28 <sup>1</sup> Defendant Mui is represented by Thomas P. Feher of LeBeau-Thelen, LLP. The remaining Defendants are represented by Mr. Bragg of the Office of the Attorney General.