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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 C. DWAYNE GILMORE,

11 Plaintiff,

12 vs.

13 D. AUGUSTUS, et al.,

14 Defendants.
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1:12-cv-00925-LJO-GSA-PC

ORDER DENYING AS MOOT
PLAINTIFF'S MOTION TO COMPEL
FILED ON DECEMBER 3, 2014 AND
MOTION FOR RULING FILED ON APRIL
10, 2015
(ECF Nos. 91, 120)

17 C. Dwayne Gilmore ("Plaintiff") is a state prisoner proceeding pro se and in forma
18 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
19 commencing this action on June 7, 2012. (Doc. 1.) This action now proceeds on the First
20 Amended Complaint filed on March 8, 2013, against defendants Correctional Officer (C/O) C.
21 Lockard, C/O C. Lopez, and C/O J. Hightower, for excessive force.¹ (Doc. 12.)

22 On December 3, 2014, Plaintiff filed a motion to compel, requesting a further response
23 by defendant Hightower to Plaintiff's Interrogatory No. 1, Second Set, in which Plaintiff

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25 ¹ On November 18, 2013, the court issued an order dismissing claims and defendants from this
26 action for failure to state a claim. (Doc. 17.) Defendants Lieutenant D. Augustus, Sergeant J. S. Diaz, Licensed
27 Vocational Nurse (LVN) A. Serna, LVN B. Ismat, LVN I. Bari, LVN J. Canada, LVN Z. Nartume, and John Doe
28 were dismissed from this action based on Plaintiff's failure to state any claims against them upon which relief may
be granted under §1983, and Plaintiff's claims based on supervisory liability and claims for conspiracy and
violation of due process were dismissed from this action for Plaintiff's failure to state a claim under § 1983. (*Id.*)
On July 8, 2015, the court issued an order dismissing defendant Torres from this action, with prejudice, based on
notice of defendant Torres' death. (Doc. 131.)

1 requested the name and address of defendant Torres' legal representative. (Doc. 91.) On April
2 10, 2015, Plaintiff filed a request for ruling on the December 3, 2014 motion to compel. (Doc.
3 120.)

4 In Plaintiff's December 3, 2014 motion to compel (ECF No. 91) and April 10, 2015
5 request for ruling (ECF No. 120), Plaintiff seeks only the name and address of defendant
6 Torres' legal representative in support of Plaintiff's motion for substitution of November 20,
7 2014. On July 8, 2015, defendant Torres was dismissed from this action, with prejudice, and
8 Plaintiff's motion for substitution of November 20, 2014 was denied. Based on the July 8,
9 2015 ruling, Plaintiff's December 3, 2014 motion (ECF No. 91) and April 10, 2015 request
10 (ECF No. 120) are moot and shall be denied as such.

11 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion to compel filed on
12 December 3, 2014 (ECF No. 91) and request for ruling filed on April 10, 2015 (ECF No. 120),
13 are DENIED as moot.

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15 IT IS SO ORDERED.

16 Dated: July 9, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE