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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

EARL WARNER,  
Plaintiff,  
v.  
M. CATE, et al.,  
Defendants.

**Case No. 1:12-cv-01146-MJS (PC)**  
**ORDER DENYING PLAINTIFF'S**  
**MOTION FOR RECONSIDERATION**  
**(ECF No. 150)**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. (ECF No. 1 & 7.) This action proceeds on Plaintiff's first amended complaint ("FAC") against Defendants Walker, Davis<sup>1</sup>, Prokop, Spralding, and Fellows for failure to protect in violation of the Eighth Amendment. (ECF No. 10.)

Plaintiff filed a motion to compel discovery. (ECF Nos. 126 & 129). On December 12, 2016, this Court issued an order granting in part and denying in part Plaintiff's motion to compel. (ECF No. 142.) Now pending before the Court is what Plaintiff labels a "Motion for Reconsideration" of the Court's order. (ECF No. 150.) Therein, Plaintiff asks the Court to compel Defendant Walker to provide a response to Interrogatory No. 24, which reads:

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<sup>1</sup> Formerly designated Defendant D. McGaha.

1 "What is the name, C.D.C.R. No. current address of the other inmate assigned to  
2 the cell of Plaintiff, in Building Two on January 19<sup>th</sup> and 20<sup>th</sup>, 2011?"

3 (ECF No. 150 at 2.)

4 Interrogatory No. 24 was not included in Plaintiff's motion to compel. (See ECF  
5 Nos. 126 at 22-28 & 129 at 22-28) (seeking to compel responses to Interrogatories Nos.  
6 7, 11, 12, 13, 14, 15, & 17.) Plaintiff's instant motion is therefore not a motion for  
7 reconsideration, but rather a new motion to compel. This motion is untimely. (See ECF  
8 Nos. 112 & 124.) For that reason Plaintiff's motion is DENIED.

9 IT IS SO ORDERED.

10  
11 Dated: January 5, 2017

/s/ Michael J. Seng  
12 UNITED STATES MAGISTRATE JUDGE