

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EARL WARNER,

Plaintiff,

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13 | M. CATE, et al..

Defendants.

Case No. 1:12-cv-01146-MJS (PC)

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

16 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil
17 rights action brought pursuant to 42 U.S.C. § 1983. (ECF No. 1 & 7.) This action
18 proceeds on Plaintiff's first amended complaint ("FAC") against Defendants Walker,
19 Davis¹, Prokop, Spralding, and Fellows for failure to protect in violation of the Eighth
20 Amendment. (ECF No. 10.)

21 Plaintiff filed a motion to compel discovery. (ECF Nos. 126 & 129). On December
22 12, 2016, this Court issued an order granting in part and denying in part Plaintiff's
23 motion to compel. (ECF No. 142.) Now pending before the Court is what Plaintiff labels
24 a "Motion for Reconsideration" of the Court's order. (ECF No. 150.) Therein, Plaintiff
25 asks the Court to compel Defendant Walker to provide a response to Interrogatory No.
26 24, which reads:

²⁸ ¹ 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 19th and 20th, 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 Dated: January 5, 2017

11 /s/ *Michael J. Leng*
12 UNITED STATES MAGISTRATE JUDGE

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