

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RAYMOND McGINNIS,

Plaintiff,

V.

B. ATKINSON,

Defendant.

1:12cv02045 AWI DLB PC

ORDER REQUIRING PLAINTIFF TO CLARIFY HIS REQUEST FOR DISCOVERY (Document 30)

TWENTY-ONE DAY DEADLINE

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Raymond McGinnis, a state prisoner proceeding pro se and in forma pauperis. Plaintiff filed this action on December 17, 2012. The action is proceeding against Defendant Atkinson for violation of the Eighth Amendment.

Defendant filed a motion to dismiss based on Plaintiff's failure to exhaust on December 13, 2013. On April 16, 2014, the Court converted the motion into a motion for summary judgment and ordered the parties to inform the Court whether additional exhaustion-related discovery was necessary. The Court noted that the exhaustion issue appeared to be fully briefed, but that pursuant to Federal Rule of Civil Procedure 56(d), it would consider requests for further discovery.

On May 8, 2014, Defendant informed the Court that no additional discovery was needed.

On May 19, 2014, Plaintiff filed a motion entitled, "Motion for Order of Discovery." Plaintiff does not state whether he is seeking additional discovery, nor does he reference the Court's prior order, and the nature of his request is therefore unclear.

Accordingly, Plaintiff is ORDERED to clarify his request. Plaintiff is reminded that general discovery has not yet opened in this action, and will only open if the complaint survives the pending exhaustion challenge.

Therefore, within twenty-one (21) days of the date of service of this order, Plaintiff shall inform the Court whether additional discovery <u>related to exhaustion</u> is necessary. If Plaintiff requests additional discovery, he must identify the discovery and explain why it is necessary.

IT IS SO ORDERED.

Dated: May 19, 2014

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE