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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KEVIN D. BRYANT,)	1:12-cv-02074 DLB PC
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S MOTION
)	FOR COURT ORDER DIRECTING
vs.)	DEFENDANTS TO PRESERVE RECORDS
)	[ECF No. 17]
)	
CONSTANCE WADDLE, et al.,)	
)	
Defendants.)	

Plaintiff Kevin D. Bryant (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. Plaintiff filed this action on December 26, 2012.¹ He names Correctional Lieutenant Constance Waddle and Correctional Officer E. Castellanos as Defendants.

On July 24, 2014, Plaintiff filed a motion for a court order directing Defendants and the CDCR to preserve all records of all the investigations into the June 8, 2010, assault which is the subject of this litigation.

“Litigants owe an uncompromising duty to preserve what they know or reasonably should know will be relevant evidence in a pending lawsuit, or one in the offing” Judge William W. Schwarzer, et al., Federal Civil Procedure Before Trial § 11:125 (2004) (internal

¹ On March 18, 2013, Plaintiff consented to the jurisdiction of the United States Magistrate Judge.

1 quotations and citations omitted). Further, the destruction of evidence is sanctionable conduct.
2 Given the duty to preserve evidence and the absence of any authority set forth by Plaintiff in his
3 motion, Plaintiff's motion is denied. The court declines to presume that Defendants will destroy
4 evidence and Plaintiff has provided no evidence that the records and evidence are in danger of
5 being destroyed.

6 Accordingly, Plaintiff's motion seeking a court order prohibiting Defendants from
7 destroying evidence, filed July 24, 2014, is HEREBY DENIED.
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9 IT IS SO ORDERED.
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11 Dated: January 21, 2015

/s/ Dennis L. Beck
12 UNITED STATES MAGISTRATE JUDGE
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