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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	NORMAN GERALD DANIELS III,) Case No.: 1:13-cv-00202-AWI-SAB (PC)
12	Plaintiff,) ORDER DENYING PLAINTIFF'S MOTION FOR PENALTIES AGAINST DEFENDANT STU SHERMAN
13	v.	
14	STU SHERMAN,) [ECF No. 79]
15	Defendant.)
16)
17	Plaintiff Norman Gerald Daniels III is appearing pro se and in forma pauperis in this civil	
18	rights action pursuant to 42 U.S.C. § 1983.	
19 20	Currently before the Court is Plaintiff's request for the Court to impose penalties on Defendant Sharmon for not more a quitten discourse latten filed Nevember 22, 2016^{-1} Defendent filed	
20	Sherman for not responding to a written discovery letter, filed November 22, 2016. ¹ Defendant filed an opposition on December 12, 2016, and Plaintiff did not file a reply. Therefore, the motion is	
21 22	deemed submitted for review without oral argument. Local Rule 230(m).	
22	I.	
23	DISCUSSION	
25	Pursuant to the Court's discovery and scheduling order all written discovery requests were to	
26	be served at least forty-five days prior to the discovery deadline of July 29, 2016. (Order ¶¶ 2, 7, ECF	
27		
28	¹ The Court finds that Plaintiff's motion should be construed as a motion to compel a discovery response from Defendant Sherman.	
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No. 47.) Accordingly, all written discovery requests had to be served by June 10, 2016, to comply with the July 29, 2016, deadline. (Id.)

In September 2016, almost three months after the discovery deadline, Plaintiff served a written discovery request on Defendant Sherman. Because the discovery deadline had expired, Defendant Sherman was under no obligation to file a response to Plaintiff's untimely discovery request. See, e.g., Bertram v. Sizelove, No. 1:10-cv-00583-AWI-GBC (PC), 2012 WL 2090060, at *2 (E.D. Cal. June 8, 2012) (court will not grant a motion to compel untimely discovery). In addition, all motions to compel discovery had to be filed on or before the July 29, 2016, deadline. (Disc. & Sch. Order ¶ 7.) In this instance, neither the discovery request nor the motion to compel were timely filed and served, and Plaintiff's motion to compel further responses to his discovery request must be denied.

II.

ORDER

Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motion for penalties construed as a motion to compel is DENIED.

IT IS SO ORDERED.

Dated: **January 4, 2017**

MA.B

UNITED STATES MAGISTRATE JUDGE