

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DIJON KINNEY ,
Plaintiff,
v.
P.D. BRAZELTON, et al.,
Defendants.

CASE NO. 1:14-cv-00503-AWI-MJS (PC)
ORDER DENYING PITCHESS MOTION
(ECF No. 31)

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. The action proceeds against Defendant Flores on Plaintiff's Eighth Amendment claims for medical indifference and cruel and unusual punishment.

Before the Court is Plaintiff's July 10, 2015 Pitchess motion. (ECF No. 31.) A Pitchess motion relates to criminal proceedings and is misplaced in this federal civil action. See People v. Mooc, 26 Cal. 4th 1216, 1219-20 (2001) (a Pitchess motion allows a criminal defendant to compel discovery of evidence from arresting officer's personnel file). Plaintiff was required to seek discovery in compliance with the Federal Rule of Civil Procedure 34, which requires Plaintiff to serve Defendant with a request for the production of documents. If Defendant objected to the request and Plaintiff believed the

1 documents to be discoverable, Plaintiff's recourse was to file a motion to compel.
2 However, discovery in this action closed on July 7, 2015,¹ and Plaintiff was required to
3 serve his discovery requests on Defendant forty five days prior to that date. (ECF No.
4 20.) Motions to compel also were due by July 7, 2015. Accordingly, the time for Plaintiff
5 to seek Defendant Flores's personnel records has passed.

6 Regardless, Plaintiff may not file a request for documents from Defendant's
7 personnel files directly with the Court. His inappropriate Pitchess motion is denied.

8

9 IT IS SO ORDERED.

10

Dated: July 17, 2015

11

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

¹ The discovery deadline since has been extended to and including July 21, 2015 for the limited purpose of taking Plaintiff's deposition in Arizona.