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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROY BONNER,
Plaintiff,
v.
GIPSON, et al.,
Defendants.

Case No. 1:14-cv-00610-LJO-JLT (PC)
**ORDER DENYING PLAINTIFF'S MOTION
TO SET THE CASE FOR TRIAL AND
REQUIRING PARTIES TO ADVISE
WHETHER A SETTLEMENT
CONFERENCE MAY BE BENEFICIAL**
(Doc. 22)
15-DAY DEADLINE

Plaintiff is proceeding in this action on that two defendants used excessive force in violation of the Eighth Amendment. (Doc. 12.) The Discovery and Scheduling order issued in this case on December 10, 2014 which set the discovery cut-off date as August 10, 2015 and the dispositive motion filing deadline as October 19, 2015. (Doc. 17.) On June 15, 2015, Plaintiff filed a motion seeking that this case be set for trial. (Doc. 22.)

Pursuant to Federal Rule of Civil Procedure 16(b)(3)(A), district courts must enter scheduling orders to establish deadlines for, among other things, filing of motions and completion of discovery. Scheduling orders may also “set dates for pretrial conferences and for trial.” F.R.Civ.P. 16(b)(3)(B)(v). “A schedule may be modified only for good cause and with the judge’s consent.” F.R.Civ.P. 16(b)(4). The scheduling order “controls the course of the action unless the court modifies it.” F.R.Civ.P. 16(d).

In *pro se* inmate cases, this Court's usual practice is to issue a discovery and scheduling

1 order and to set a trial date after dispositive motions have been filed and decided. Plaintiff's
2 skeletal motion fails to state any reasons why he feels the case should not follow the normal
3 course. Likewise, he fails to even attempt to show good cause to modify the Discovery and
4 Scheduling order and, given that any party is entitled to file a dispositive motion, which must be
5 decided before trial, this failure is fatal to Plaintiff's request. *See* Fed. R. Civ.P. 56.

6 However, if both sides desire, a settlement conference may be scheduled without
7 necessitating a showing of good cause as required to modify the discovery and scheduling order.
8 Accordingly, it is **HEREBY ORDERED** that:

- 9 1. Plaintiff's motion to set a trial date in this case, filed on June 15, 2015 (Doc. 22), is
10 **DENIED**; and
- 11 2. **within 15 days** of the date of service of this order, the parties **SHALL** notify the
12 Court whether they believe, in good faith, that settlement is a possibility in this
13 case and whether they are interested in having a settlement conference scheduled.¹

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15 **IT IS SO ORDERED.**

16 Dated: **July 6, 2015**

/s/ Jennifer L. Thurston
17 UNITED STATES MAGISTRATE JUDGE

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27 ¹ It is noted that Plaintiff submitted a confidential settlement statement that was received with his motion to set the
28 case for trial which will be retained by the Court for use if a settlement conference is scheduled, but will be destroyed
if the Defendants are not interested in a settlement conference at this time.