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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BINH TRAN,

Plaintiff,

vs.

M. JUNIOUS, et al.,

Defendants.

1:14-cv-01320-EPG-PC

ORDER DENYING REQUEST TO
CONDUCT DISCOVERY
(ECF No. 18.)

Binh Tran (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on August 25, 2014. (ECF No. 1.) On September 8, 2014, Plaintiff consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c). (ECF No. 5.) The Court has screened the Complaint and will initiate service upon defendant Sergeant Smith forthwith.

On April 7, 2016, Plaintiff filed a request for a Court order compelling discovery of Sergeant Smith’s personnel records and related files. (ECF No. 18.) Plaintiff seeks production of documents from the California Department of Corrections and Rehabilitation (CDCR).

Plaintiff’s request shall be denied because it is not yet time for discovery in this case. Plaintiff is advised that the Court will issue a scheduling order opening discovery after the Complaint has been served and the Defendant has filed an Answer to the Complaint. At this stage of the proceedings, Defendant has not been served with process. Therefore, it is not time

1 for discovery in this action, and Plaintiff's request to conduct discovery at this stage of the
2 proceedings shall be denied.

3 Plaintiff is advised that CDCR is not a party to this action, and Plaintiff must serve a
4 third-party subpoena for documents when the time comes. After the Court issues a
5 Discovery/Scheduling Order opening discovery, Plaintiff must file a request for issuance of a
6 subpoena with the Court, listing the documents he wishes to obtain. After the subpoena is
7 properly served, CDCR shall respond and provide Plaintiff with documents in their possession
8 and custody.

9 Accordingly, IT IS HEREBY ORDERED that Plaintiff's request to conduct discovery,
10 filed on April 7, 2016, is DENIED.

11 IT IS SO ORDERED.

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13 Dated: May 2, 2016

14 /s/ Eric P. Gray
15 UNITED STATES MAGISTRATE JUDGE
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