UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

OUSSAMA SAHIBI,

Plaintiff,

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BORJAS GONZALES, et al.,

Defendants.

CASE No. 1:15-cv-01581-LJO-MJS (PC)

ORDER DEEMING DEFENDANTS'
MOTION TO COMPEL WITHDRAWN

(ECF NO. 63)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 28 U.S.C. § 1983. The action proceeds on Plaintiff's Eighth Amendment excessive force claim against Defendants Brandon Cope, Borjas Gonzales, Mario Lozano, Howard Smith, and Stan, and on a Fourteenth Amendment due process claim against Defendant Crounse.

On November 3, 2016, Defendants Cope, Gonzales, Lozano, and Stan filed a motion to compel, stating that Plaintiff had failed to respond to discovery requests. (ECF No. 63.)

Plaintiff did not file an opposition. However, on November 22, 2016 and November 28, 2016, he filed motions seeking an extension of time to respond to Defendants' discovery requests. (ECF Nos. 67, 68.) Plaintiff stated that the requests

required him to review his medical records and, although he had sought permission to do so, such opportunity had not been afforded him.

The Court set the matter for a telephonic discovery dispute conference. (ECF No. 70.) In documents submitted in preparation for the conference, Defendants noted Plaintiff's contention that his only responsive documents are CDCR medical records he has not been allowed to review. On that basis, they asked to withdraw their motion to compel, provided that Plaintiff be prohibited from presenting any evidence outside of the CDCR medical records and not disclosed in the discovery process.

On January 13, 2017, the Court held the telephonic discovery dispute conference. (ECF No. 81.) Therein, Defendants agreed to confer with Plaintiff's Litigation Coordinator to attempt to enable Plaintiff's review of his medical file prior to January 20, 2017. Plaintiff was ordered to advise the Court and counsel by January 30, 2017 if he intended to present medical records not contained in his CDCR file. To date, Plaintiff has submitted no such statement of intent.

Based on the foregoing, it appears that Plaintiff does not intend to present medical records outside of those contained in his CDCR medical file. Accordingly, Defendants' motion to compel (ECF No. 63) is HEREBY DEEMED WITHDRAW pursuant to Defendants' request.

IT IS SO ORDERED.

Dated: February 6, 2017 Isl Michael J. Seng