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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD RAY YORK,
Plaintiff,
v.
M. STEWART, et al.,
Defendants.

No.: 1:15-cv-01828-DAD-BAM (PC)

ORDER AMENDING DISCOVERY AND
SCHEDULING ORDER

(Doc. Nos. 21, 60)

I.
INTRODUCTION

Plaintiff Reginald Ray York is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s claim against Defendant Garcia for excessive force, Defendant Neighbors for failure to protect Plaintiff from the use of force, and Defendants Garcia and Neighbors for the failure to decontaminate Plaintiff’s cell, in violation of the Eighth Amendment. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 16, 2017, the Court issued a discovery and scheduling order, setting a dispositive motion deadline of January 25, 2018. (Doc. No. 21.) That deadline was extended until July 23, 2018, (Doc. No. 45), and October 22, 2018, (Doc. No. 60), on Defendants’ motions.

1 In the meantime, on September 27, 2018, the Court issued findings and recommendations
2 regarding the parties' cross motions for sanctions, recommending that terminating sanctions be
3 imposed, and that this action be dismissed for Plaintiff's failure to failure to obey a court order
4 and failure to make disclosures and cooperate in discovery. *See* Fed. R. Civ. P. 16(f); Fed. R.
5 Civ. P. 37(b)(2)(A)(v); Fed. R. Civ. P. 41(b); L.R. 110. (Doc. No. 61.) While the matter was
6 under submission with the District Judge, the dispositive motion deadline passed.

7 On December 18, 2018, the District Judge issued an order adopting the findings and
8 recommendations in part, denying Plaintiff's motion for sanctions, and granting Defendants'
9 motion in part. (Doc. No. 66.) The District Judge declined to impose terminating sanctions, and
10 instead imposed an evidentiary sanction on Plaintiff, prohibiting him from supporting his case or
11 opposing Defendants' defenses with any evidence that has not already been disclosed by Plaintiff
12 to Defendants. This matter was then referred for further proceedings consistent with that order.

13 Therefore, the Court issues this amended scheduling order.

14 II.

15 DISCUSSION

16 On December 3, 2018, Plaintiff filed a motion for summary judgment pursuant to Federal
17 Rule of Civil Procedure 56. (Doc. No. 64.) Defendants filed a response on December 14, 2018,
18 arguing that Plaintiff's motion should be denied as improperly before the Court based on the
19 passing of the dispositive motion deadline while the findings and recommendations were under
20 submission. (Doc. No. 65.) Defendants further requested that, if terminating sanctions were not
21 imposed by the District Judge, that the Court reschedule the dispositive motion deadline to permit
22 the parties to properly submit dispositive motions. (Doc. No. 66.) Plaintiff did not reply to
23 Defendants' response. Local Rule 230(I).

24 Based on the rulings of the District Judge, and in the interests of justice and an efficient
25 resolution of this matter, the Court does not find it appropriate to recommend denial of Plaintiff's
26 summary judgment motion. Instead, the dispositive motion deadline will be extended until
27 **February 4, 2019**, and Plaintiff's motion will be deemed timely, as filed. Defendants will be
28 permitted until February 4, 2019 to file an opposition to Plaintiff's summary judgment motion

1 and/or a cross motion for summary judgment. Defendants should address whether Plaintiff has
2 supported his case or opposed their defenses using any evidence prohibited by the December 18,
3 2018 order imposing sanctions on Plaintiff.

4 Plaintiff may file a reply to Defendants' opposition and/or cross motion for summary
5 judgment, if any, by **February 18, 2019**.

6 **III.**

7 **CONCLUSION**

8 Accordingly, it is HEREBY ORDERED that

- 9 1. The dispositive motion deadline in this case is extended until **February 4, 2019**;
- 10 2. Defendants will be permitted until **February 4, 2019** to file an opposition to
11 Plaintiff's summary judgment motion and/or a cross motion for summary judgment. Defendants
12 should address whether Plaintiff has supported his case or opposed their defenses using any
13 evidence prohibited by the December 18, 2018 order imposing sanctions on Plaintiff; and
- 14 3. Plaintiff may file a reply to Defendants' opposition and/or cross motion for
15 summary judgment, if any, by **February 18, 2019**.

16 IT IS SO ORDERED.

17 Dated: **December 20, 2018**

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20 UNITED STATES MAGISTRATE JUDGE