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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

|               |   |                                      |
|---------------|---|--------------------------------------|
| MARIO KING,   | ) | Case No.: 1:16-cv-00433-LJO-SAB (PC) |
|               | ) |                                      |
| Plaintiff,    | ) |                                      |
|               | ) | ORDER DENYING PLAINTIFF’S MOTION TO  |
| v.            | ) | COMPEL AND FOR IMPOSITION OF         |
|               | ) | SANCTIONS                            |
| W.S. WADKINS, | ) |                                      |
|               | ) | [ECF No. 80]                         |
| Defendant.    | ) |                                      |
|               | ) |                                      |
|               | ) |                                      |

Plaintiff Mario King is a state prisoner and appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s motion to compel and for imposition of sanctions, filed November 1, 2017. Defendant filed an opposition on November 14, 2017. Plaintiff did not file a reply and the time to do so has expired. Accordingly, the instant motion is submitted for review without oral argument. Local Rule 230(1).

**I.  
RELEVANT BACKGROUND**

This action is proceeding against Defendant W.S. Wadkins for alleged due process violations relating to a rules violation for fighting with another inmate.

Defendant Wadkins filed an answer to the complaint on August 18, 2016, and on August 23, 2016, the Court issued the discovery and scheduling order.

1 On August 23, 2017, Plaintiff filed a motion to compel, and Defendant opposed the motion on  
2 the ground that Defendant had not been served with the discovery requests. On September 13, 2017,  
3 the Court denied Plaintiff's motion to compel, but ordered Defendant to serve responses to Plaintiff's  
4 first set of interrogatories and request for production of documents within forty-five days of the  
5 Court's order.

6 On October 27, 2017, Defendant filed a request for an extension of time to serve his  
7 interrogatory responses. The Court granted Defendant's request on October 30, 2017, and granted  
8 Defendant until November 3, 2017, to serve his responses to the interrogatory requests.

9 Defendant submits that he served his response to the requests for production of documents on  
10 October 27, 2017, and his response to the interrogatory requests on October 30, 2017. (Declaration of  
11 A. De La Torre-Fennell (De La Torre-Fennell) ¶¶ 5, 7; ECF No. 81-1.)

12 **II.**  
13 **DISCUSSION**

14 **A. Motion to Compel**

15 This is a civil action to which the Federal Rules of Civil Procedure apply. The discovery  
16 process is subject to the overriding limitation of good faith, and callous disregard of discovery  
17 responsibilities cannot be condoned. Asea, Inc. v. Southern Pac. Transp. Co., 669 F.2d 1242, 1246  
18 (9th Cir. 1981) (quotation marks and citation omitted). "Parties may obtain discovery regarding any  
19 nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of  
20 the case, considering the importance of the issues at stake in the action, the amount in controversy, the  
21 parties' relative access to relevant information, the parties' resources, the importance of the discovery  
22 in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its  
23 likely benefit." Fed R. Civ. P. 26(b)(1).

24 Plaintiff filed his motion to compel on November 1, 2017, self-dated by Plaintiff on October  
25 28, 2017. (ECF No. 80.) Plaintiff contends that Defendant has failed to comply respond to the  
26 outstanding discovery requests as ordered in the Court's September 13, 2017 order, and Plaintiff  
27 requests imposition of sanctions. However, defense counsel declares that on October 27, 2017-just  
28 one day prior to Plaintiff's motion to compel, Defendant timely served a response to Plaintiff's

1 requests for production of documents. (De La Torre-Fennell ¶ 5) Then, after receiving an extension  
2 of time, Defendant filed a response to Plaintiff’s interrogatory requests on October 30, 2017. (De La  
3 Torre-Fennell ¶ 7.) Accordingly, there is no basis to grant Plaintiff’s motion to compel and it must be  
4 denied.

5 **B. Request for Imposition of Sanctions and Reasonable Expenses**

6 Plaintiff seeks \$875.23 for the filing of the instant motion to compel, and an additional \$875.27  
7 as sanctions.

8 “Sanctions may be warranted under Federal Rule of Civil Procedure 37(b)(2) for failure to  
9 obey a discovery order as long as the established issue bears a reasonable relationship to the subject of  
10 discovery that was frustrated by sanctionable conduct.” Navellier v. Sletten, 262 F.3d 923, 947 (9th  
11 Cir. 2001). Under Rule 37(b)(2), subsections (A) through (C), sanctions are “appropriate only in  
12 ‘extreme circumstances’ and where the violation is ‘due to willfulness, bad faith, or fault of the  
13 party.’” Fair Housing of Marin v. Combs, 285 F.3d 899, 905 (9th Cir. 2002).

14 If a motion to compel discovery is granted, “the court must, after giving an opportunity to be  
15 heard, require the party ... whose conduct necessitated the motion ... to pay the movant’s reasonable  
16 expenses incurred in making the motion, including attorney’s fees.” Fed. R. Civ. P. 37(a)(5).  
17 Plaintiff’s pro se status does not insulate him from sanctions for failure to respond to discovery. See  
18 Warren v. Guelker, 29 F.3d 1386, 1390 (9th Cir. 1994) (a court cannot decline to impose sanctions  
19 simply because a plaintiff is proceeding pro se); Sanchez v. Rodriguez, 298 F.R.D. 460, 470 (C.D.  
20 Cal. 2014) (pro se status “does not excuse intentional noncompliance with discovery rules.”).

21 As an initial matter, Plaintiff is proceeding pro se in this action and has therefore not incurred  
22 attorney’s fees. In addition, as explained above, Plaintiff’s claim that Defendant has failed to respond  
23 to his discovery requests is without merit and there is no basis for imposition of sanctions.  
24 Accordingly, there is simply no justification to impose sanctions against Defendant, and Plaintiff’s  
25 motion must be denied.

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Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motion to compel and for imposition of sanctions is DENIED.

IT IS SO ORDERED.

Dated: November 29, 2017

  
UNITED STATES MAGISTRATE JUDGE