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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID FLYNN,
Plaintiff,
v.
CANLAS, et al.,
Defendants.

Case No. 1:16-cv-01052-AWI-BAM (PC)
ORDER DENYING PLAINTIFF’S MOTION
TO COMPEL AS MOOT
(ECF No. 39)

Plaintiff David Flynn (“Plaintiff”) is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff was a prisoner at the time this action was initiated. This action proceeds against Defendant Maddox for deliberate indifference to serious medical needs in violation of the Eighth Amendment.

On July 9, 2018, Plaintiff filed a motion to compel pursuant to Federal Rule of Civil Procedure 37(a)(3)(B). (ECF No. 39.) On July 11, 2018, the Court issued an order directing the parties to meet and confer regarding the discovery dispute, and to file a joint statement following the parties’ conference. The Court further stayed briefing on Plaintiff’s motion to compel. (ECF No. 40.) On August 9, 2018, the parties filed a joint statement indicating that the motion to compel had been resolved in full, and Defendant Maddox agreed to produce full responses to the discovery requests at issue by August 24, 2018. (ECF No. 41.) The Court agreed to maintain Plaintiff’s motion to compel on the docket pending Defendant’s provision of responses to the

1 outstanding requests. (ECF No. 42.)

2 Currently before the Court is Plaintiff's further status report, filed August 27, 2018. (ECF
3 No. 49.) Plaintiff details his communications with defense counsel regarding Defendant
4 Maddox's outstanding responses to Plaintiff's Special Interrogatories, Set One, and has attached
5 the parties' email correspondence. Plaintiff indicates that he received Defendant Maddox's
6 responses by email on August 22, 2018. Plaintiff further contends that he believes Defendant
7 violated the Court's meet and confer order by emailing Plaintiff, rather than telephoning or setting
8 up an in-person meeting. (Id.)

9 The Court declines to find that Defendant committed any violation of the Court's order
10 regarding the meet and confer requirement. Defendant complied with the spirit of the order, and
11 made a good faith effort to communicate with Plaintiff to resolve this discovery dispute. Plaintiff
12 does not argue that he had difficulty communicating with defense counsel via email, or that the
13 meet and confer process was hindered by this method of communication. Further, as Plaintiff
14 indicates that he has received responses to his Special Interrogatories, which are the subject of his
15 pending motion to compel, the Court finds that any error on the part of Defendant in contacting
16 Plaintiff via email is harmless. As it appears the discovery dispute has been fully resolved,
17 Plaintiff's motion to compel, (ECF No. 39), is HEREBY DENIED as moot.

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19 IT IS SO ORDERED.

20 Dated: August 28, 2018

21 /s/ Barbara A. McAuliffe
22 UNITED STATES MAGISTRATE JUDGE
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