

1 referring the Court to the declaration of Lieutenant Bell. (ECF No. 36). On June 18, 2018, the
2 Court denied Plaintiff's motion, in part because Lieutenant Bell asserted that an appointment to
3 give Plaintiff access to his legal property was scheduled for June 14, 2018. (ECF No. 38, p. 2).
4 However, the Court allowed Plaintiff to renew his motion for sanctions if Plaintiff's property was
5 not in fact made available to him. (Id. at 3).

6 On June 25, 2018, Plaintiff filed a motion for compensation (that was not signed under
7 penalty of perjury). (ECF No. 39). Plaintiff alleged that his legal property still had not been
8 returned. As this issue has been ongoing and the deadlines have shifted repeatedly, the Court set
9 a hearing on Plaintiff's motion for compensation. (ECF No. 40). However, the Court stated that
10 it would "vacate this hearing if, by July 9, 2018, Plaintiff's legal property is made available to
11 him, and a representative from Coalinga files a declaration confirming that Plaintiff's legal
12 property was made available to him." (Id. at 3).

13 On July 9, 2018, the Executive Director filed an opposition to Plaintiff's motion for
14 compensation. (ECF No. 44). The opposition included a declaration signed under penalty of
15 perjury from Aaron Maylin, a Hospital Police Sergeant with DSH – Coalinga (id. at 5-6), as well
16 as an Interdisciplinary Note dated June 14, 2018 (id. at 8). According to the declaration of
17 Sergeant Maylin, on June 14, 2018, Plaintiff was given an opportunity to view his legal property
18 that was on the flash drive of patient Tolles. (Id. at 6 & 8). Upon reviewing the contents,
19 Plaintiff stated "I don't need those. I already got those." (Id.). A search of the flash drive was
20 conducted for any other legal documents belonging to Plaintiff, and none were found. (Id.).

21 As a representative from Coalinga filed a declaration confirming that Plaintiff's legal
22 property was made available to him, Plaintiff's motion for compensation was denied and the
23 hearing was vacated. (ECF No. 45).

24 On July 18, 2018, Plaintiff filed a second motion to compel (ECF No. 46), which is now
25 before the Court. Plaintiff alleges that a white flash drive was confiscated, and that this white
26 flash drive contained legal materials. Plaintiff alleges that, while he did have a meeting with
27 Sergeant Maylin, the white flash drive was not produced. Sergeant Maylin and other officers
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1 stated that they were aware of the white flash drive, but also stated they could not find it.

2 Lieutenant Kenneth Bell has submitted a declaration under penalty of perjury that officers
3 searched for, but could not find, a white flash drive in Plaintiff's property. (ECF No. 36, p. 5, ¶
4 5). While Plaintiff alleges in his second motion to compel that his white flash drive was actually
5 in the possession of Peter Tolles, Plaintiff's motion also states that officers have told him that
6 they could not locate a white flash drive, and it appears that officers have searched the property of
7 Peter Tolles in an effort to find Plaintiff's white flash drive (id.).

8 The Court will deny Plaintiff's Motion to Compel because the submitted evidence
9 indicates that DSH-Coalinga has already searched for the material but cannot find it. The Court
10 cannot require DSH-Coalinga to produce something it does not have.

11 Moreover, Plaintiff does not list the documents on the flash drive that are relevant to this
12 case, or explain why he cannot get copies of those documents. Plaintiff does allege that his
13 claims "are severely prejudiced" because he does not have access to his white flash drive, but he
14 does not explain why.

15 Accordingly, IT IS HEREBY ORDERED that Plaintiff's second motion to compel is
16 DENIED.

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18 IT IS SO ORDERED.

19 Dated: July 27, 2018

20 /s/ Eric P. Gray
21 UNITED STATES MAGISTRATE JUDGE
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