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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAMONT SHEPARD,
Plaintiff,
v.
M. BORUM, *et al.*,
Defendants.

Case No. 1:18-cv-00277-DAD-JDP
ORDER DENYING MOTIONS TO COMPEL
DISCOVERY
ECF Nos. 22, 23, 33

Plaintiff is a state prisoner proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. Before the court are plaintiff's three motions to compel discovery.

On April 29, 2019, plaintiff moved to compel discovery, claiming that he had not received responses to his interrogatories or requests for admissions. *See* ECF Nos. 22, 23. On May 16, 2019, defendants opposed the motions, arguing that they did respond to plaintiff's discovery requests after plaintiff filed his motions. *See* ECF No. 24. Plaintiff did not reply. Plaintiff's first two motions to compel discovery are moot and will be denied.

On July 17, 2019, plaintiff moved to compel discovery for a third time, arguing that defendants failed to answer his second set of interrogatories. *See* ECF No. 33. On August 7, 2019, defendants opposed the motion, arguing that plaintiff did not have the right to serve additional interrogatories. *See* ECF No. 37. Plaintiff did not reply.

1 Rule 33 limits the number of interrogatories that a party may serve to twenty-five, unless
2 otherwise agreed by the parties or ordered by the court. Fed. R. Civ. P. 33(a)(1). In this case,
3 plaintiff served defendants with twenty-five interrogatories, *see* ECF No. 23 at 3-6, and
4 defendants responded to those interrogatories, *see* ECF No. 24-1 at 9. The parties have not
5 agreed to enlarge discovery, and plaintiff does not seek leave from the court to do so. Therefore,
6 plaintiff does not have the right to serve a second set of interrogatories. *See* Fed. R. Civ. P.
7 33(a)(1).

8 Even if plaintiff were to move the court for permission to serve more discovery, such a
9 motion would not be supported by Rule 37 because defendants answered the first set of
10 interrogatories. *See* Fed. R. Civ. P. 37(a) (providing grounds for a motion to compel discovery
11 responses when a party fails to answer an interrogatory submitted under Rule 33 or gives an
12 evasive or incomplete disclosure); ECF No. 37-1 at 14-25 (listing defendants' responses to
13 plaintiff's first set of interrogatories). Thus, plaintiff's third motion to compel is also without
14 merit.

15 Accordingly, all three of plaintiff's motions to compel discovery, ECF Nos. 22, 23, 33, are
16 denied.

17
18 IT IS SO ORDERED.

19 Dated: October 17, 2019


UNITED STATES MAGISTRATE JUDGE

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23 No. 204
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