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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MYOHO MYSTIC WINSTON, JR.,  
  
                                Plaintiff,  
  
                  v.  
  
J. CARDENAS,  
  
                                Defendant.

Case No. 1:18-cv-00857-LJO-EPG (PC)  
  
ORDER DENYING PLAINTIFF’S MOTION  
FOR SUMMARY JUDGMENT WITHOUT  
PREJUDICE  
  
(ECF NO. 19)

Myoho Winston, Jr. (“Plaintiff”), is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case is now proceeding “on Plaintiff’s Eighth Amendment excessive force claim against defendant Cardenas.” (ECF No. 6, p. 5).

On October 26, 2018, Plaintiff filed a motion for summary judgment (ECF No. 19), which the Court will deny without prejudice. Plaintiff’s motion does not comply with this Court’s local rules. While Plaintiff did submit a declaration and attach evidence, Local Rule 260(a) requires that “[e]ach motion for summary judgment or summary adjudication shall be accompanied by a ‘Statement of Undisputed Facts’ that shall enumerate discretely each of the specific material facts

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relied upon in support of the motion and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish that fact.”

Here, Plaintiff failed to file a “Statement of Undisputed Facts.”

Moreover, based on the facts of this case, the Court finds that Plaintiff’s motion is premature because discovery has not yet been opened.

Accordingly, IT IS ORDERED that Plaintiff’s motion for summary judgment is DENIED, without prejudice to Plaintiff re-filing the motion after discovery has opened and in compliance with this Court’s local rules.

IT IS SO ORDERED.

Dated: October 29, 2018

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE