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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,

Plaintiff,

No. CIV S-06-0156 GEB KJM P

vs.

DIRECTOR, CALIFORNIA
DEPARTMENT OF CORRECTIONS
AND REHABILITATION, et al.,

Defendants.

ORDER

Plaintiff is a state prison inmate proceeding pro se with a civil rights action under 42 U.S.C. § 1983. He has filed a motion to compel discovery, a motion for assistance in getting access to his legal property, and two motions for additional time in which to file his opposition to the motion for summary judgment.

I. Motion To Compel

A. Defendant Ellis

Plaintiff asks the court to compel defendant Ellis to provide a copy of the video-taped use of force interview. He notes that defendant has refused to provide the video because the request was served after the discovery cut-off date. He argues, however, in essence, that the request was timely because defendant Ellis filed his answer after the scheduling order had

1 issued. He claims “as long as I am not acting in bad-faith, the defendants should be made to
2 produce evidence as crucial as to this action” Docket No. 182 at 2.

3 Defendants counter that neither the request nor the motion to compel are timely.

4 Plaintiff’s request is disingenuous and borders on an action taken in bad faith.

5 On July 1, 2009, the court established a new sixty day discovery deadline as to defendant Ellis
6 only. Docket No. 134. Plaintiff’s request for production was dated September 16, 2009, after
7 the sixty day period had expired. In addition, plaintiff received two extensions of time in which
8 to file motions to compel and did file a motion on October 2, 2009; he did not challenge
9 defendant Ellis’s refusal to provide a copy of the video-taped use of force interview, despite his
10 current claim that it is “totally critical” to his case. Docket No. 182 at 4; see Docket No. 154.

11 Plaintiff is cautioned that he may be subject to sanctions, including dismissal of
12 the action, should he file additional baseless motions that misrepresent the record in this case.

13 B. Recording Of The Hearing To Medicate

14 Plaintiff alleges that he was unable to make proper notes because of the
15 conditions under which he listened to the recording of this hearing. Plaintiff has failed to explain
16 why the procedure, although possibly cumbersome, has hampered his ability to make use of the
17 material on the compact disc.

18 II. Motion For Assistance In Obtaining Legal Materials

19 Plaintiff contends that officials at CSP-Corcoran will expedite the provision of
20 legal materials if the court clerk verifies that an inmate has a pending deadline. Plaintiff may
21 show officials a copy of this order, which establishes his deadline below.

22 III. Motions For The Extension Of Time

23 Plaintiff has filed two motions for the extension of time, one asking for fifteen
24 days, one asking for thirty days, in which to file his opposition to the pending motion for
25 summary judgment.

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1 Defendants' motion has been pending since September 2009. In October 2009
2 and January 2010, plaintiff asked that the proceedings be held in abeyance, representing that he
3
4 would not be able to respond because of a trial that was "scheduled to last throughout March 29,
5 2010." Docket No. 173 at 1. The court noted that plaintiff's claim was misleading, because the
6 trial was scheduled to begin on March 29, 2010.

7 Plaintiff will be given the additional fifteen days he requested but no further
8 extensions will be granted. If his motion is not filed within that period, the court will deem the
9 failure to file a waiver of any opposition and will decide the motion on defendants' papers only.

10 IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's motion to compel (docket no. 182) is denied;
- 12 2. Plaintiff's request for assistance (docket no. 185) is denied;
- 13 3. Plaintiff's motions for additional time (docket nos. 187 & 188) are granted and
14 plaintiff is granted fifteen days from the date of this order in which to file and serve an
15 opposition to defendants' motion for summary judgment. Defendants' reply, if any, is due
16 within fourteen days of the filing of plaintiff's opposition.

17 DATED: May 20, 2010.

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19 
20 U.S. MAGISTRATE JUDGE

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