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

RONALD E. WALTON,

Plaintiff,

No. CIV S-09-0479 EFB P

vs.

J. BUTLER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He moves to compel defendants to produce responses to his requests for production of documents. As explained below, plaintiff’s motion is denied as untimely.

On May 6, 2010, the court issued a discovery and scheduling order. Dckt. No. 17. That order required that discovery, including any motions to compel, be completed by August 6, 2010. *Id.* The order also required that requests for written discovery be served no later than June 7, 2010. *Id.* Thereafter, plaintiff moved to modify the scheduling order on the grounds that he could not meet the June 7, 2010 deadline because his access to the law library had been severely limited and he had temporarily been deprived of his legal materials. Dckt. Nos. 18, 20. On August 5, 2010, the court granted plaintiff’s motion and issued an amended discovery and scheduling order. Dckt. No 22. The August 5, 2010 order required that discovery be completed

1 by, and any motions to compel filed by, November 15, 2010. *Id.* The order also required that all
2 discovery requests be served no later than September 13, 2010. *Id.*

3 On November 22, 2010, plaintiff requested another extension of time to conclude
4 discovery, stating that he had been on lockdown since October 11, 2010 and that he had not
5 received any of the documents he had requested from defendants. Dckt. No. 28. On December
6 8, 2010, the court denied plaintiff's motion, as it was untimely and did not demonstrate the
7 requisite good cause for further modification of the scheduling order. *Id.* The court noted that
8 plaintiff had "not explained what efforts he made, if any, from August through September, the
9 period of time preceding the October 2010 lockdown, to conduct discovery." *Id.* The court also
10 noted that it was not clear from plaintiff's request whether he sought an extension of time to
11 conduct discovery in the first instance, or to file a motion to compel defendants to respond to his
12 discovery requests. *Id.*

13 Now pending are plaintiff's December 9, 2010 and December 14, 2010 motions to
14 compel. Dckt. Nos. 34, 35. Those motions request that defendants be compelled to produce any
15 video surveillance of the April 1, 2008 assault, as well as all of defendants' personnel files. *See*
16 Dckt. No. 34 at 1. Plaintiff states that he requested these materials from defendants on August
17 11, 2010 and on September 16, 2010, but that defendants have not provided these materials to
18 him. *Id.* Defendants argue that the motions are untimely. They also contend that they have fully
19 responded to plaintiff's requests for production by making appropriate objections and providing
20 all documents within their possession, custody or control. Dckt. No. 36.

21 Pursuant to the amended discovery and scheduling order, motions to compel were due by
22 November 15, 2010. Dckt. No. 22. Plaintiff's December 2010 motions are untimely and
23 plaintiff has not demonstrated good cause for further amendment of the scheduling order.

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1 Accordingly, IT IS HEREBY ORDERED that plaintiff's motions to compel, Dckt. Nos.
2 34 and 35, are denied.

3 DATED: April 12, 2011.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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