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

TONY ASBERRY,

Plaintiff,

No. 2:09-cv-01494 MCE KJN P

vs.

MATHEW CATE, et al.,

Defendants.

ORDER

_____ /

Plaintiff moves to compel further discovery, moves for sanctions against defendants for the alleged violation of this court’s discovery order filed August 7, 2012, and requests additional authority to use the prison law library, e.g. by this court’s extension of the discovery deadline, which expired on August 10, 2012.

Plaintiff contends that defendants have intentionally withheld relevant evidence by failing to produce any record of “housing rosters” pertinent to the allegations of plaintiff’s complaint. However, review of the court’s order (Dkt. No. 66), and plaintiff’s instant exhibit (Dkt. No. 68 at 8), indicates that defendants fully complied with the court’s instructions -- by forwarding plaintiff’s production request to the litigation coordinator for California State Prison-Sacramento (“CSP-SAC”), who in turn provided a declaration detailing her attempts to locate and produce all responsive documents, particularly housing rosters. (See Dkt. No. 66 at 3; Dkt.

1 No. 68 at 8.) The resulting declaration of CSP-SAC Litigation Coordinator Linda T. Young
2 provides that there are, apparently, no responsive documents for the relevant period.

3 Plaintiff's contention that the Litigation Coordinator's efforts were a "wild goose
4 chase," and a deliberate effort to hide relevant evidence from plaintiff, is without apparent
5 support. Defendants, like plaintiff, will be obliged to abide by their discovery responses as this
6 case progresses; the court cannot order defendants to produce documents they say they do not
7 have. Therefore, plaintiff's motions for further discovery and for sanctions are denied.

8 Plaintiff also contends that he requires additional opportunities to use the services
9 of the prison law library. Plaintiff recites a very limited library schedule, and notes that the
10 expiration of the discovery deadline in this case has rendered plaintiff unable to obtain priority
11 assignment to the library. Plaintiff is currently incarcerated at the Donovan Correctional Facility,
12 in San Diego. Correctional officials are hereby informed that, while the discovery deadline
13 expired in this action, the dispositive motion filing deadline is November 2, 2012; the
14 preparation of, and/or response to, a dispositive motion, generally requires substantial research,
15 writing, and use of copying services.

16 For the foregoing reasons, IT IS HEREBY ORDERED that:

17 1. Plaintiff's motion for further discovery and an extension of time (Dkt. No. 67),
18 is denied;

19 2. Plaintiff's motion for sanctions (Dkt. No. 68), is denied; and

20 3. Prison officials, particularly prison library staff, are informed that the next
21 deadline in this action is the dispositive motion deadline, November 2, 2012; in addition,
22 opposition to a dispositive motion must be filed and served within 21 days after service of the
23 motion. See E.D. Cal. L.R. 230(1).

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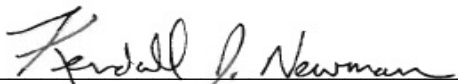
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SO ORDERED.

DATED: September 17, 2012


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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