

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

ROBERT J. BARDO,

Plaintiff,

No. 2:09-cv-1645 FCD KJN P

vs.

R. J. SUBIA, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s May 23, 2011 motion for a court order directing defendants to comply with the April 18, 2011 order. On June 3, 2011, defendants filed an opposition to this motion. For the following reasons, plaintiff’s motion is denied.

The April 18, 2011 order addressed plaintiff’s motion to compel filed February 15, 2011. In the motion to compel, plaintiff argued that defendants failed to adequately respond to a request for production of documents. In relevant part, plaintiff claimed that defendants failed to produce inmate Garafolo’s prison records regarding his drop-out status from the Aryan Brotherhood and/or Hell’s Angels as well as any documents regarding acts of violence he committed while in those gangs.

1 In the April 18, 2011 order, the undersigned observed that defendants' opposition
2 did not specifically address plaintiff's request for documents regarding inmate Garafolo's
3 involvement with the Aryan Brotherhood and/or Hell's Angels. Defendants were ordered to
4 review inmate Garafolo's central file within twenty-one days and determine whether it contained
5 documents responsive to this request.

6 In the pending motion, plaintiff claims that defendants failed to provide him with
7 the documents ordered in the April 18, 2011 order. In particular, plaintiff alleges that defendants
8 failed to provide him with documents from inmate Garafolo's *confidential* prison file addressing
9 his gang status.

10 In their opposition to the pending motion, defendants state that they have provided
11 plaintiff with documents regarding inmate Garafolo's gang status which are not contained in his
12 confidential file. Defendants argue that plaintiff's original request for production of documents
13 did not request documents from inmate Garafolo's confidential file. Defendants state that
14 plaintiff is improperly seeking to reopen discovery in the pending motion.

15 The undersigned has gone back and reviewed plaintiff's original motion to compel
16 and the request for production of documents attached as an exhibit. (Dkt. No. 54 at 10-13.) The
17 original request for production of documents contained no request for documents regarding
18 inmate Garafolo's gang involvement. The original request for production of documents did not
19 mention the Aryan Brotherhood or Hell's Angels. Because plaintiff did not request these
20 documents in a request for production of documents, his request for these documents in the
21 motion to compel was improper. For these reasons, plaintiff's motion requesting that defendants
22 be ordered to comply with the April 18, 2011 order by producing these documents is denied.

23 On May 31, 2011, plaintiff filed a motion for an extension of time to respond to
24 defendants' summary judgment motion. Good cause appearing, this motion is granted.

25 ///

26 ///

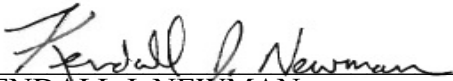
1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. Plaintiff's May 23, 2011 motion for compliance (Dkt. No. 61) is denied;
3 2. Plaintiff's May 31, 2011 motion for an extension of time (Dkt. No. 62) is

4 granted; and

5 3. Plaintiff is granted up to and including July, 1, 2011 to file and serve an
6 opposition to the motion for summary judgment. Defendants' reply, if any, shall be filed seven
7 days thereafter.

8 DATED: June 8, 2011

9
10 
11 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

12 bard1645.36(2)

13
14
15
16
17
18
19
20
21
22
23
24
25
26