

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

ANTOINE HENDERSON,

Plaintiff,

No. CIV S-09-2779 DAD P

vs.

K. PURCELL, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. Pending before the court are two brief discovery motions brought by plaintiff.

In his first motion, styled “motion to compel,” plaintiff merely states “Plaintiff motions the defendants to compel discovery to the instant case” and then refers to attached exhibits. However, plaintiff failed to attach any exhibits to his motion. In his second motion, styled “motion for discovery and interrogatories,” plaintiff seeks various documents from the defendants, including “all medical documents relating to this case and incident” and all Solano County Jail and Sheriff’s Department policy and procedures related to health-care intake.

The court will deny both of plaintiff’s motions. As to plaintiff’s motion to compel, this court does not hold litigants proceeding pro se to the same standards that it holds

1 attorneys. However, at a minimum, as the moving party plaintiff has the burden of informing the  
2 court which discovery requests are the subject of his motion to compel, which of defendants'  
3 responses are disputed, why he believes defendants' responses are deficient, why defendants'  
4 objections are not justified, and why the information he seeks through discovery is relevant to the  
5 prosecution of this action. See, e.g., Brooks v. Alameida, No. CIV S-03-2343 JAM EFB P,  
6 2009 WL 331358 at \*2 (E.D. Cal. Feb. 10, 2009) ("Without knowing which responses plaintiff  
7 seeks to compel or on what grounds, the court cannot grant plaintiff's motion."); Ellis v. Cambra,  
8 No. CIV F-02-5646 AWI SMS PC, 2008 WL 860523 at \*4 (E.D. Cal. Mar. 27, 2008) ("Plaintiff  
9 must inform the court which discovery requests are the subject of his motion to compel, and, for  
10 each disputed response, inform the court why the information sought is relevant and why  
11 Defendant's objections are not justified."). Here, plaintiff has failed to carry his burden as the  
12 moving party and has not demonstrated that he is entitled to any relief.

13           As to plaintiff's motion for discovery and interrogatories, it appears that plaintiff  
14 was addressing this motion to defendants. However, any discovery requests plaintiff intended to  
15 serve on defendants were untimely at the time they were presented. In this regard, under the  
16 court's discovery and scheduling order, the parties were allowed to conduct discovery until  
17 November 19, 2010. Plaintiff needed to serve all requests for discovery pursuant to Rules 31, 33,  
18 34, or 36 at least sixty days prior to that date. However, the court did not receive plaintiff's  
19 undated motion until December 6, 2010. Moreover, under the court's discovery and scheduling  
20 order, the parties were required to serve discovery requests on all parties to this action and not  
21 file them with the court. Finally, insofar as plaintiff intended his motion for discovery and  
22 interrogatories as a motion to compel, again, plaintiff has failed to carry his burden as the moving  
23 party and has not demonstrated that he is entitled to any relief.

24 ////

25 ////

26 ////

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

Accordingly, IT IS HEREBY ORDERED that plaintiff's discovery motions (Doc. Nos. 29 & 30) are denied.  
DATED: March 9, 2011.

  
\_\_\_\_\_  
DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

DAD:9  
hend2779.disc