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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMMY R. QUAIR, SR.,  
Plaintiff,  
v.  
GERTZ, et al.,  
Defendants.

No. 2:11-cv-2293 JAM CKD P

ORDER

Plaintiff has been granted leave to file an amended complaint in Case No. 2:11-cv-2293 JAM CKD P (“Quair I”), which concerns jail staff’s alleged failure to protect plaintiff from another inmate. (ECF No. 77; see ECF No. 55.)

Before the court is plaintiff’s motion to re-open discovery in both that case and the consolidated case, No. 2:11-cv-2294 JAM CKD P (“Quair II”), in which plaintiff alleges that jail officials retaliated against him by withholding evidence of his exhaustion of administrative remedies in the failure-to-protect incident. (ECF No. 78; see ECF No. 73.) The Ninth Circuit remanded this case “for consideration” of plaintiff’s argument on appeal that he needed the grievances in order to investigate other potential defendants and claims in the failure-to-protect case. (See ECF No. 73.)

1 In his motion, plaintiff asserts that in order to identify “John Doe” defendants in Quair I,  
2 he needs a copy of his “grievance file” from the Butte County Jail, which is “only a few pages.”  
3 (ECF No. 78 at 3-4.) He requests that the court re-open discovery in order for him to obtain this  
4 file.

5 In order to minimize confusion and piecemeal litigation, the court will deny plaintiff’s  
6 motion at this time. In Quair I, plaintiff is advised to file his amended complaint naming those  
7 defendants he can presently identify. If and when an answer to the amended complaint is filed, a  
8 Discovery and Scheduling Order will issue. If plaintiff wishes to amend his complaint again to  
9 name additional defendants identified in the course of discovery, leave to amend may be  
10 appropriate.

11 In Quair II, the Ninth Circuit directed this court to consider plaintiff’s new argument “as it  
12 relates to his access to courts and retaliation claims.” (See ECF No. 73 at 2.) Thus the court  
13 declines to re-open discovery in Quair II so that plaintiff may identify potential defendants in  
14 Quair I. If the court finds that additional factual development is warranted in considering  
15 plaintiff’s new access-to-courts and retaliation argument in Quair II, it will so order at that time.

16 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for leave back to  
17 discovery (ECF No. 78) is denied.

18 Dated: February 3, 2015

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21 CAROLYN K. DELANEY  
22 UNITED STATES MAGISTRATE JUDGE