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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARRAN GRANT,
Plaintiff,
v.
WILLIAM KNIPP, et al.,
Defendants.

No. 2:11-cv-2302 KJM KJN P

ORDER

Plaintiff is a state prisoner proceeding without counsel. This civil rights action is proceeding on the complaint filed August 30, 2011. Defendant Palomares¹ filed a motion for summary judgment, which is presently submitted for decision. However, in his deposition, plaintiff claims that defendant Palomares cuffed plaintiff's hands prior to the alleged use of excessive force. (Pl.'s Depo. at 22.) However, defendant did not address such testimony in the motion for summary judgment.

Conversely, in plaintiff's statement of undisputed facts, plaintiff did not dispute (ECF No. 37 at 1, 2-3) the defendant's undisputed fact No. 19: "Once on the ground, Officer Palomares ordered Grant to place his hands behind his back. Grant complied and Officer Palomares applied handcuffs." (ECF No. 30-3 at 3.) Plaintiff did not address his deposition testimony on this issue.

¹ Defendant Knipp was dismissed by order filed November 23, 2011. (ECF No. 11.)

1 In his complaint plaintiff states, under penalty of perjury, that the hearing officer asked plaintiff's
2 questions of defendant in the subsequent rules violation report hearing, including:

3 Q: Why didn't you just tell me to put my hands on my head
4 to cuff me up?

5 A: I utilized the authorized cuffing techniques that I
6 believed would best insure my safety.

(ECF No. 1 at 6.)

7 Accordingly, within seven days, defendant shall address plaintiff's testimony as to the
8 timing of the handcuffing in the context of his motion. Plaintiff's reply shall be filed fourteen
9 days thereafter. The court is not inclined to grant extensions of time for either party.

10 IT IS HEREBY ORDERED that within seven days from the date of this order, defendant
11 shall file further briefing concerning plaintiff's deposition testimony that he was handcuffed prior
12 to the use of force herein. Plaintiff's reply shall be filed fourteen days thereafter.

13 Dated: December 10, 2013

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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