

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WALTER HOWARD WHITE,
Plaintiff,
v.
SMYERS, et al.,
Defendants.

No. 2:12-cv-2868 MCE AC P

ORDER

Plaintiff proceeds pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff was recently transferred from the California Substance Abuse Treatment Facility (CSATF) to High Desert State Prison (HDSP). The Deputy Attorney General informs the court that the transfer is intended to be permanent. See ECF No. 138. Defendants are represented by three attorneys: defendant Miranda is represented by Mr. Cregger; defendant Pomazal is represented by Mr. Blechman; and defendants Lankford, Rohfling, Mayes, Schmidt, Lee and Swingle are represented by Deputy Attorney General Ms. Hung. Pursuant to the court's recent orders, several matters remain pending in this action, including the parties' briefing identifying further anticipated discovery. See ECF No. 133.

Presently pending are the following matters. First, plaintiff states that he has not yet received all of his legal materials pertinent to this action. See ECF No. 134. The Deputy Attorney General will be directed to contact the HDSP Litigation Coordinator to ascertain the

1 current status of plaintiff's access to his legal materials, including whether all of his pertinent
2 materials have been transferred from CSATF to HDSP; whether plaintiff has full access to these
3 materials at HDSP; if plaintiff does not currently have full access to all of his legal materials
4 related to this action, when plaintiff will be able to obtain such access and, if applicable, how
5 such access will be provided (e.g., unlimited access in plaintiff's cell or in the prison library, or
6 staggered access to a limited number of boxes at a given time).

7 Second, plaintiff has submitted two statements concerning his authorized subpoena duces
8 tecum. See ECF No. 136-37. Plaintiff states that he believes the court erred in identifying the
9 subject matter of his proposed authorized subpoenas – plaintiff is correct that the appropriate
10 reference should have been “Item (f)” rather than “Item (e)” at p. 19, line 3 of the court’s April
11 16, 2015 order. See ECF No. 126 at 19; cf. id. at 17 n.5 (Plaintiff’s Proposed Subpoena No. 6(f)).
12 However, because the court set forth the precise content of the subpoenas it will authorize – see
13 ECF No. 126 at 19-20 – the court’s typographical error presents no further problem.

14 Third, the court notes that plaintiff has submitted no proposed subpoenas, despite filing a
15 Notice of Submission signed by plaintiff on May 3, 2015. See ECF No. 136. Plaintiff will be
16 granted one final extension of time to submit his proposed subpoenas, subject to the express
17 limitations set by the court. See ECF No. 126 at 19-20.¹

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19 ¹ Due to the lack of clarity concerning plaintiff’s access to his legal materials, the court again sets
20 forth the precise content of plaintiff’s authorized subpoenas duces tecum, ECF No. 126 at 19-20:

- 21 1. To the State Compensation Insurance Fund (SCIF), for all
22 documents referencing plaintiff’s SCIF claim number 05336666
23 (concerning plaintiff’s workers compensation claim for his prison
accident sustained at CSATF on July 21, 2008), including any
communications between plaintiff and SCIF, SCIF and CDCR, and
SCIF and any CDCR institution.
- 24 2. To High Desert State Prison (HDSP), for all documents
25 referencing plaintiff’s July 21, 2008 accident at CSATF and/or
plaintiff’s related need for medical care.
- 26 3. To the California Substance Abuse Treatment Facility (CSATF),
27 for all documents referencing plaintiff’s July 21, 2008 accident at
CSATF and/or plaintiff’s related need for medical care, including
any communications between CSATF and CDCR or any CDCR
institution.

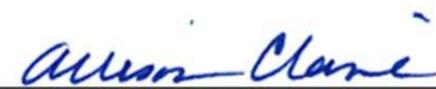
1 Finally, plaintiff's motion to stay this action, ECF No. 134, is denied as unnecessary.
2 Additional discovery, if any, will be ordered by the court with due deference to plaintiff's
3 incarceration and access to his legal materials, and the dispositive motion deadline has been
4 vacated pending further order of the court.

5 Accordingly IT IS HEREBY ORDERED that:

6 1. Plaintiff's motion to stay this action, ECF No. 134, is denied.
7 2. Within fourteen days after the filing date of this order, plaintiff may submit his
8 proposed subpoenas duces tecum as authorized by the court, and as follows:
9 a. The Clerk of Court is directed to again provide plaintiff, with a copy of this
10 order, three subpoena duces tecum forms, signed but otherwise blank, pursuant to
11 Fed. R. Civ. P. 45;
12 b. Within fourteen days after the filing date of this order, plaintiff may complete
13 and return to the court the attached Notice of Submission of Documents form and
14 the proposed subpoenas duces tecum. No further extensions of time will be granted.
15 3. Within fourteen days after the filing date of this order, the Deputy Attorney General
16 shall file and serve a statement reflecting the response of the HDSP Litigation Coordinator
17 pursuant to the inquiry set forth above.
18 4. In addition, plaintiff's motion, ECF No. 121, to strike the opposition of defendant
19 Miranda's opposition filed March 23, 2015, is denied; the court will consider the positions of all
20 parties when evaluating whether further discovery is required in this action.

21 SO ORDERED.

22 DATED: May 11, 2015

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24 ALLISON CLAIRE
25 UNITED STATES MAGISTRATE JUDGE

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WALTER HOWARD WHITE,

No. 2:12-cv-2868 MCE AC P

15 Plaintiff,

15 V.

17 || SMYERS, et al.,

12 Defendants.

NOTICE OF SUBMISSION OF DOCUMENTS

Plaintiff submits the following documents in compliance with the court's order filed

10.1002/anie.201907002

completed subpoena duces tecum forms

26 || Date

Plaintiff