

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
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA NEIL HARRELL,

Plaintiff,

v.

MICHELLE BELYEA,

Defendant.

No. 2:15-cv-00576 JAM AC PS

ORDER

Plaintiff is proceeding in this matter pro se, and accordingly this motion was referred to the undersigned pursuant to Local Rule 302(c)(21). This order addresses plaintiff’s post-appeal motion for subpoenas duces tecum (ECF No. 135) and two now-moot motions for extensions of time that remain pending on the court’s docket (ECF Nos. 125, 127).

On February 13, 2019, the undersigned issued findings and recommendations in this case recommending that defendant’s motion for summary judgment be granted. ECF No. 120. On March 11, 2019, plaintiff filed objections to the findings and recommendations, but on March 27, 2019, he also moved for an extension of time to file objections and simultaneously filed additional objections. ECF Nos. 122, 125, 126. On April 8, 2019, plaintiff moved for an extension of time to reply to defendant’s response to his objections; and on April 25, 2019, without a ruling on the motion, he filed said reply. ECF Nos. 127, 129. Plaintiff’s March 27, 2019 and April 8, 2019 motions for extensions of time are therefore denied as moot.

1 On May 17, 2019, the court adopted the undersigned's findings and recommendations,
2 granted defendant's motion for summary judgment, and issued judgment closing the case. ECF
3 Nos. 130, 131. Plaintiff appealed the court's judgment on July 15, 2019. ECF No. 132. On
4 August 5, 2019, plaintiff filed a motion for subpoenas duces tecum, seeking documents he intends
5 to use to support his appeal. ECF No. 135. One of the requested subpoenas is directed toward
6 defendant and seeks "A Complete copy of the records of the Courts [sic] file" Id. at 3.
7 Defendant opposes the motion. ECF No. 136.

8 The filing of a notice of appeal confers jurisdiction on the court of appeals and divests the
9 district court of its jurisdiction over aspects of the case involved in the appeal. Rodriguez v. Cty.
10 of Los Angeles, 891 F.3d 776, 790 (9th Cir. 2018). None of the limited exceptions to the
11 divestiture rule apply here. The filing of plaintiff's notice of appeal divested the court of
12 jurisdiction to issue the subpoenas, and plaintiff's motion must therefore be denied. Moreover,
13 discovery closed over one year ago, and defendant is under no obligation to produce any further
14 documents, much less the entire court record in this case.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's motions for extensions of time (ECF Nos. 125, 127) are DENIED as moot;
17 and
- 18 2. Plaintiff's motion for subpoenas duces tecum (ECF No. 135) is DENIED for lack of
19 jurisdiction.

20 DATED: August 23, 2019

21 
22 ALLISON CLAIRE
23 UNITED STATES MAGISTRATE JUDGE
24
25
26
27
28