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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALEJANDRO PRADO,
Plaintiff,
v.
GARY SWARTHOUT, et al.,
Defendants.

No. 2:15-cv-1866 WBS DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. Presently before the court is plaintiff’s motion to compel (ECF No. 28) and defendants’ response to the court’s order to show cause (ECF No. 35).

Plaintiff filed a motion to compel discovery on November 30, 2017. (ECF No. 28.) Plaintiff claimed he propounded discovery on defendants and they failed to timely respond. Plaintiff requested the court compel defendants to respond to his discovery requests. He did not include the discovery requests with his motion.

Defendants did not file a response to plaintiff’s motion to compel. The court ordered defendants to show cause why the court should not grant plaintiff’s motion in light of their lack of response. Defendants responded stating the court should not grant plaintiff’s motion to compel because they have served the required discovery responses twice and no further response is necessary. (ECF No. 35.)


1 Counsel stated they were informed by the litigation coordinator at California Medical
2 Facility ("CMF"), where plaintiff is housed, that plaintiff could not receive discovery responses
3 because he was in a mental health crisis bed. Plaintiff informed counsel that he had not received
4 any discovery responses during plaintiff's deposition. Counsel stated they sent the requested
5 discovery responses via electronic mail to the litigation coordinator at CMF with instructions to
6 hand deliver them to plaintiff on December 1, 2017. Counsel stated they sent a second copy of
7 the requested responses to plaintiff concurrently with their response to the order to show cause.

8 Plaintiff recently requested an extension of time in which to file an opposition to
9 defendants' motion for summary judgment (ECF No. 37) and did indicate that he was still
10 awaiting discovery responses. Based on counsel's statements and plaintiff's statements it appears
11 plaintiff has received the requested discovery responses.

12 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to compel (ECF No. 28)
13 is denied as moot.

14 Dated: May 22, 2018

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16 DLB:12
17 DLB:1/prisoner-civil rights/prad1866.mtc2

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE