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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

<p>LARRY GIRALDES, JR., Plaintiff, v. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, et al., Defendants.</p>	<p>No. 2:16-cv-2139 KJM DB <u>ORDER</u></p>
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Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims defendants refused to provide him with dental treatment in retaliation for filing grievances.

Defendants filed a motion for summary judgment on December 21, 2018. (ECF No. 21.) In response, plaintiff filed a request for an extension of time to file his opposition along with a motion to compel production of documents necessary to oppose the summary judgment motion. (ECF Nos. 22, 23.) The court denied the motion to compel as untimely but directed counsel for defendants to indicate whether plaintiff was provided with the opportunity to review any medical records contained in his central file. (ECF No. 24.)

Defendants stated that plaintiff had recently submitted two requests to review his medical records and both requests were granted. (ECF No. 25.) Defendants also stated that they granted

1 plaintiff's requests for copies of medical records he reviewed. Plaintiff then filed a notice stating
2 the records defendants provided to plaintiff relate to a separate civil rights action. (ECF No. 26.)
3 He claims the documents provided were medical records, however, in order to oppose the
4 pending motion for summary judgment he needs his dental records. The court directed
5 defendants to provide a response to plaintiff's notice. (ECF No. 27.)

6 Defendants response states that an investigation into plaintiff's access shows that he has
7 been provided ample access to the records he has requested. (ECF No. 28.) Defendants request
8 that to the extent plaintiff seeks an order from this court to provide him with further access it
9 should be denied, and he should be directed to file his opposition to the summary judgment
10 motion. In exhibits attached to their response, defendants have provided information indicating
11 that plaintiff has made three requests and they have provided him with copies of the requested
12 documents.

13 Plaintiff also submitted an authorization for the release of his entire medical file, including
14 dental records, to an attorney representing him in a separate civil action on March 25, 2019.
15 (ECF No. 28-1 at 13.) Defendants state that, pursuant to department policy, a request to forward
16 medical records to a third party cannot come from the inmate. Instead the inmate must forward
17 the signed authorization for the release of his records to his attorney. The attorney should then
18 submit the signed authorization to the litigation coordinator at the prison with a request for the
19 medical records. Defendants state that plaintiff was instructed on the process and informed that
20 once he complies the records would be provided.

21 Thereafter, plaintiff filed a reply stating that he has been provided with medical records,
22 but none of the records he has been given are dental records. (ECF No. 29.) Plaintiff requests
23 that the court order defendants to provide dental documents related to dental issues and provide
24 plaintiff with access to his central file for related, but not included prison appeal supplements.
25 Alternatively, he requests that the court consider setting this action for settlement conference.

26 Plaintiff claims that the records he has received are related to other civil actions he is
27 presently pursuing. While defendants have provided plaintiff with records as requested, they
28 have not specified that any of the documents provided contain plaintiff's dental records. The

1 exhibits attached to defendants' response show that plaintiff has not asked for his dental records
2 in any of his recent requests. (ECF No. 28-1 at 5-19.) However, because it is clear from
3 plaintiff's filings (ECF Nos. 26, 29) that he seeks dental records, defendants will be directed to
4 inform the court regarding the status of plaintiff's dental records.

5 Plaintiff's request for a settlement conference will be denied. Unless both parties in this
6 case request the court to conduct a settlement conference, the court will not order a court-
7 supervised settlement conference until it has ruled on defendants' motion for summary judgment.
8 Defendants have not requested a settlement conference. Thus, plaintiff's request for a settlement
9 conference will be denied without prejudice.

10 IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's request to schedule this matter for a settlement conference (ECF No. 29) is
12 denied without prejudice; and
- 13 2. Within fourteen days of the filing date of this order counsel for defendants shall file
14 and serve a statement indicating whether plaintiff has been provided with access to or
15 copies of relevant portions of his dental records. If plaintiff has not received access to
16 or copies of his dental records, defendants shall state why access or copies have not
17 been provided. This filing should include any appropriate declarations.

18 Dated: May 9, 2019

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20 /s/ DEBORAH BARNES
21 UNITED STATES MAGISTRATE JUDGE
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27 DLB:12
28 DLB:1/Orders/prisoner-civil rights/gira2139.docs(2)