



1 discovery and dispositive motions have expired, the only currently outstanding matter is the  
2 district judge's review of the undersigned's findings and recommendations. Until that review is  
3 completed, there is no matter that either party, or his counsel, need pursue. Therefore, there are  
4 no grounds for appointing counsel for plaintiff at this time. Therefore, plaintiff's request will be  
5 denied.

6 Plaintiff's second motion seeks an order of this court compelling defendant to authorize  
7 inspection of defendant's personnel file and to produce "the surveillance security footage of Aug.  
8 18, 2016" taken at High Desert State Prison (HDSP). ECF No. 72 at 1. See also ECF No. 73  
9 (request for production).

10 Plaintiff's third motion seeks sanctions against defendant based on his counsel's prior  
11 discovery response that "there were no operable surveillance cameras in building where the  
12 incident occurred on the date in question." ECF No. 74 at 5.

13 Defense counsel has filed an opposition to plaintiff's second and third motions. See ECF  
14 No. 75. Defendant contends that he has already fully responded to these matters by previously  
15 informing plaintiff that no responsive materials exist. Id. (citing ECF No. 38 at 3).

16 Defendant's position is supported by the court's prior determinations that defendant has  
17 satisfied his discovery obligations. By order filed August 22, 2018, the undersigned noted  
18 defendant's response that there were "no responsive documents" to plaintiff's Production Request  
19 No. 1 (seeking complaints against defendant between January and August 2016), and "no  
20 operable surveillance cameras" capturing information responsive to plaintiff's Production  
21 Request No. 4 (seeking security camera footage from August 18, 2016). ECF No. 38 at 2-3 n. 3  
22 and related text. Notwithstanding these responses, the court directed defendant to provide a  
23 verified response to these matters, explaining, id. at 3:

24 So that both parties can rely on the subject responses, the court will  
25 direct defense counsel to serve plaintiff with a verification – signed  
26 under oath by both defendant and defense counsel – that a reasonable  
27 and diligent search has been conducted to locate all requested  
28 documents, videotapes and other materials responsive to Plaintiff's  
Request for Production Nos. One and Four, and that there exist no  
responsive materials.

1 At defendant's request, the court modified this order to require the verifications of defense  
2 counsel and the HDSP Litigation Coordinator, which were provided and found to satisfy the  
3 court's order. ECF No. 48 at 2. The court also directed defendant to submit for in camera review  
4 his privilege log and withheld materials responsive to plaintiff's Request for Production No. 3  
5 (seeking all documents "concerning any use of force incident involving [sic] the plaintiff on  
6 August 18, 2016 or any investigation or action concerning that incident"). Id. at 4-5. Following  
7 in camera review, the court directed the Litigation Coordinator to make arrangements for plaintiff  
8 to review the relevant materials. ECF No. 55 at 6. The court also directed defendant to lodge a  
9 copy of the video containing plaintiff's post-incident interview. ECF No. 48 at 4.

10 These orders and defendant's cooperation and timely compliance demonstrate that  
11 plaintiff's motion to compel is moot and his motion for sanctions is both frivolous and vexatious.  
12 The court previously admonished plaintiff to refrain from filing extraneous and frivolous matters  
13 in this case. See ECF No. 55 at 5-6. Plaintiff is again directed to refrain from filing further  
14 matters in this action unless so directed by the court. See Local Rule 110 ("Failure . . . of a party  
15 to comply with these [Local] Rules or with any order of the Court may be grounds for imposition  
16 by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of  
17 the Court.").

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff's motion for appointment of counsel, ECF No. 70, is denied without  
20 prejudice.
- 21 2. Plaintiff's motion to compel, ECF No. 72, is denied as moot.
- 22 3. Plaintiff's motion for sanctions, ECF No. 74, is denied as frivolous and vexatious.
- 23 4. Plaintiff is admonished to refrain from filing further matters in this case until so  
24 directed by the court.

25 IT IS SO ORDERED.

26 DATED: May 29, 2019

27   
28 ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE