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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER LIPSEY, JR.,  
  
Plaintiff,  
  
v.  
  
M. KALIL, et al.,  
  
Defendants.

No. 2:17-cv-1429 TLN AC P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On October 5, 2021, the court ordered plaintiff to file and serve an opposition to defendants’ motion for summary judgment or a statement of non-opposition. ECF No. 54. Plaintiff has now responded to that order stating that he is still waiting for defendants to serve him with discovery responses as ordered by the court. ECF No. 55. It appears that plaintiff misunderstood this court’s previous order.

By order filed September 13, 2021, the undersigned vacated plaintiff’s motion for sanctions and to compel discovery responses and granted defendants’ motion to stay discovery, except to the extent that plaintiff was permitted to file a motion to compel responses to discovery related to the exhaustion of his administrative remedies. ECF No. 51. In other words, defendants were **not** required to provide plaintiff with any further discovery, but plaintiff was allowed to file a motion to compel responses to his exhaustion-related discovery requests. Plaintiff was advised

1 that any motion to compel would have to be limited to responses to discovery requests that are  
2 related to exhaustion. necessary for plaintiff to defend against the motion for summary judgment,  
3 “**and** have not been satisfied by the exhibits to the motion for summary judgment.” *Id.* at 2  
4 (emphasis in original). In light of plaintiff’s response, it appears that he believes responses to  
5 some of his discovery requests are necessary to allow him to respond to the motion for summary  
6 judgment. He will therefore be given an opportunity to file either a response to the motion for  
7 summary judgment or a motion to compel the responses he believes are necessary to defend  
8 against the motion for summary judgment.

9 If plaintiff files a response to the motion for summary judgment, all discovery shall  
10 remain stayed pending resolution of the summary-judgment motion. In the event plaintiff files a  
11 motion to compel, briefing on the motion for summary judgment will be stayed pending  
12 resolution of the motion to compel. If plaintiff chooses to file a motion to compel, it must  
13 specifically identify which responses defendants have provided that he believes are deficient and  
14 why he believes they are deficient. Plaintiff is further reminded that any responses he seeks to  
15 compel must (1) be related to exhaustion, (2) be necessary to defend against the motion for  
16 summary judgment, **and** (3) not have been satisfied by the exhibits to the motion for summary  
17 judgment.”

18 Accordingly, IT IS HEREBY ORDERED that within twenty-one days of the service of  
19 this order, plaintiff shall file either (1) an opposition to defendants’ motion for summary judgment  
20 or statement of non-opposition or (2) a motion to compel discovery responses that complies with  
21 the instructions outlined above. Failure to comply with this order will result in a recommendation  
22 that this action be dismissed without prejudice for failure to prosecute pursuant to Federal Rule of  
23 Civil Procedure 41(b).

24 DATED: October 22, 2021

25   
26 ALLISON CLAIRE  
27 UNITED STATES MAGISTRATE JUDGE  
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