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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL ARZAGA,
Plaintiff,
v.
E. SANTIAGO, et al.,
Defendants.

No. 2:18-cv-0313 KJM KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis. Two filings are before the court.

Background

On July 2, 2020, the undersigned issued a discovery and scheduling order which provided that discovery would close on November 3, 2020. (ECF No. 48.) On December 1, 2020, plaintiff's motion to stay discovery was denied, and the discovery deadline was extended until March 1, 2021, solely for the purpose of locating and serving defendants Santiago, Victoriano, and Haluik, and to resolve any motion to compel further responses to plaintiff's August 15, 2020 request for production of documents. (ECF No. 64.) The court confirmed that in all other respects, the July 2, 2020 scheduling order remained in effect; discovery is closed, and the pretrial motions deadline was extended to June 1, 2021. (Id.)

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1 Service of Process on Defendants Santiago, Haluik, and Victoriano

2 On March 1, 2021, plaintiff submitted three USM-285 forms for service on defendants E.
3 Santiago, Haluik, and A. Victoriano. However, rather than provide a current address for such
4 defendants, plaintiff requested that the U.S. Marshal serve Robert Tripp, Supervisor of Special
5 Agents in Charge, at the United States Department of Justice, Federal Bureau of Investigations.
6 (ECF No. 69.) Plaintiff is advised that the U.S. Department of Justice and the FBI are not
7 responsible for investigating addresses for service of process by pro se prisoners. Rather, as
8 plaintiff was previously informed, it is incumbent upon him to locate individuals he seeks to serve
9 as defendants in plaintiff's civil rights action.

10 Nevertheless, following review of the record, the court has, by separate order, directed re-
11 service of process on such defendants through the court's E-Service pilot program for civil rights
12 cases. In light of such effort, the court again extends plaintiff's time for service of process on
13 such defendants for 90 days from the date of this order. Fed. R. Civ. P. 4(m).

14 Objections

15 Plaintiff's filing is not clear, primarily because he seeks a motion based on his right to
16 confront witnesses in the context of discovery. The Sixth Amendment right of confrontation
17 applies only to criminal prosecutions. United States v. Hall, 419 F.3d 980, 985-86 (9th Cir.
18 2005). To the extent plaintiff seeks reconsideration of the court's order denying plaintiff's
19 motion to compel, such request is untimely. Local Rule 303(b), states "rulings by Magistrate
20 Judges . . . shall be final if no reconsideration thereof is sought from the Court within fourteen
21 days . . . from the date of service of the ruling on the parties." Id. Thus, if plaintiff intended to
22 seek reconsideration of the January 27, 2021 order, such request is untimely because it was not
23 filed until March 5, 2021.

24 Nevertheless, plaintiff also misquotes the court's scheduling order by omitting the second
25 sentence of paragraph 6. While the scheduling order did provide a discovery deadline of
26 November 3, 2020, the court ordered as follows:

27 6. The parties may conduct discovery until November 3, 2020. Any
28 motions necessary to compel discovery shall be filed by that date. **All requests for discovery pursuant to Fed. R. Civ. P. 31, 33, 34 or**

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36 shall be served not later than sixty days prior to that date.

(ECF No. 48 at 5 (emphasis added).) Thus, plaintiff’s request for admissions was propounded too late under the scheduling order, as explained in the January 27, 2021 order. (ECF No. 68 at 2-3.) It appears that plaintiff believes the court arbitrarily issued its scheduling order, “creating a statute of limitations.” (ECF No. 70 at 1.) However, Rule 16(b)(1) of the Federal Rules of Civil Procedure expressly requires the court to issue a scheduling order. Id. (unless exempt by local rule, the judge “must issue a scheduling order.”)

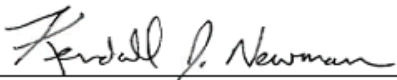
Moreover, plaintiff has now provided copies of his requests for admissions.¹ None of plaintiff’s requests attempted to obtain information concerning the location of defendants E. Santiago, Haluik, and A. Victoriano. Therefore, such discovery requests did not fall within the narrow exception set forth in the court’s December 1, 2020 order. (ECF No. 64.)

Because plaintiff is not entitled to relief based on his March 5, 2021 filing, his “motion” is denied.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff is granted an additional 90 days from the date of this order to serve process on defendants E. Santiago, Haluik, and A. Victoriano; and
2. Plaintiff’s March 5, 2021 motion (ECF No. 70) is denied.

Dated: March 11, 2021



 KENDALL J. NEWMAN
 UNITED STATES MAGISTRATE JUDGE

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¹ In addition, plaintiff provided 23 pages of court orders and other documents filed in the court record. (ECF No. 70 at 27-50.) Plaintiff is advised that all orders and filings by the parties are retained in the court’s docket. Therefore, plaintiff is not required to re-submit such documents. Plaintiff should refrain from doing so in the future.