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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL SALDANA,  
Plaintiff,  
v.  
M.E. SPEARMAN, et al.,  
Defendants.

No. 2:18-cv-0319 AC P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983, has filed a motion to compel. ECF No. 54.

Plaintiff’s motion seeks to compel production of video interviews of two inmate-witnesses that he claims were taken after the incident at issue in this case. *Id.* at 1. With the exception of the deadline for taking plaintiff’s deposition, which expired on December 8, 2020, ECF No. 49, discovery in this matter closed on August 4, 2020, ECF No. 44. Plaintiff’s motion is therefore over five months late and offers no explanation for its untimeliness. Furthermore, even if plaintiff’s motion were timely, it is clear from the attachments to the motion that counsel advised plaintiff that there were no videos responsive to his request, ECF No. 54 at 6, 83, and the court cannot order defendant to produce something that does not exist.

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Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to compel, ECF No. 54,  
is DENIED.

DATED: January 27, 2021

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE