1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	DEREK TATE,	No. 2:18-cv-0822 KJM AC P
12	Plaintiff,	
13	v.	<u>ORDER</u>
14	J. ANDRES,	
15	Defendant.	
16		
17	Plaintiff, a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C.	
18	§ 1983, has filed a motion for sanctions and to find defendant in contempt. ECF No. 60.	
19	By order filed March 26, 2020, the undersigned granted defendant's request to extend the	
20	dispositive motion deadline to April 24, 2020. ECF No. 54. Defendant then moved to extend the	
21	deadline an additional five days, up to April 29, 2020. ECF No. 55. On April 27, 2020, the court	
22	granted plaintiff's motion to compel and vacated the dispositive motion deadline. ECF No. 56 at	
23	6-7. The motion for an extension of time was accordingly denied as moot, and the dispositive	
24	motion deadline was to be re-set upon resolution of the discovery matter. Id. at 7. Defendant	
25	filed a motion for summary judgment two days later. ECF No. 57. That motion was vacated, and	
26	defendant was advised that he could file a motion for summary judgment after discovery was	
27	fully resolved and a new dispositive motion deadline was set. ECF No. 58.	
28	////	
		1

1	Plaintiff now argues that defendant disregarded a court order when he filed a motion for	
2	summary judgment after the extended deadline of April 24, 2020, and after the dispositive motion	
3	deadline was vacated. ECF No. 59. He claims that defendant's only purpose was to harass him	
4	and retaliate against him for filing a motion to compel. <u>Id.</u> at 6-8. Plaintiff asks that the court	
5	sanction defendant by prohibiting him from filing another motion for summary judgment, holding	
6	him in contempt, and issuing a fine. <u>Id.</u> at 12.	
7	Although the dispositive motion deadline was vacated, defendant was not prohibited from	
8	filing a motion for summary judgment and therefore did not violate a court order. Furthermore,	
9	defendant is entitled to seek summary judgment if he believes it is appropriate and will be given	
10	that opportunity to do so once the discovery matter is fully resolved.	
11	Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for sanctions and to find	
12	defendant in contempt (ECF No. 60) is denied.	
13	DATED: May 21, 2020	
14	allison claire	
15	UNITED STATES MAGISTRATE JUDGE	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28	2	
	1	