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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SMILEY MARTIN,
Plaintiff,
v.
J. HER, et al.,
Defendants.

No. 2: 18-cv-1658 KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for an extension of time to conduct discovery and request for return of a CD. (ECF No. 29.) Also pending is defendant’s motion to compel. (ECF No. 30.) For the reasons stated herein, these motions are denied.

Plaintiff’s Claims

This action proceeds on the original complaint filed June 7, 2018, against defendant Her, a deputy sheriff employed at the Sacramento County Jail. (ECF No. 1.) Plaintiff alleges that defendant Her let a “bunch of other inmates who are rival gang members fight against us.” (Id. at 3.) Plaintiff alleges that the other inmates are Bloods, so they belonged on the east side of the jail. (Id.) Plaintiff alleges that defendant Her threatened to retaliate against him for filing a grievance. (Id. at 4.)

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1 Defendant's Motion to Compel

2 Plaintiff did not file an opposition to defendant's motion to compel. However, for the
3 reasons stated herein, defendant's motion to compel is denied.

4 Defendant alleges that plaintiff failed to make a proper response to special interrogatory
5 No. 10 which asked,

6 "Is your response to each request for admission served with these
7 interrogatories an unqualified admission? If no, for each response
that is not an unqualified admission:

8 (a) State the number of your request;

9 (b) State all facts upon which you base your response;

10 (c) State the name, address and telephone number of all persons who
11 have knowledge of those facts.

12 (ECF No. 30-2 at 28.)

13 Plaintiff responded to interrogatory no. 10, "my admissions are qualified." (Id.) Plaintiff
14 did not otherwise explain this response.

15 In the motion to compel, defendant states that plaintiff denied all requests for admissions.
16 (ECF No. 30 at 2.) Defendant argues that because plaintiff denied all requests for admissions, his
17 response to interrogatory no. 10 that his admissions are qualified is improper, evasive and fails to
18 respond to the interrogatory. (Id.)

19 Defendant served plaintiff with five requests for admissions. Request for admission one
20 states, "Admit that defendant is not liable to you under your first claim for relief for threat to
21 safety under the Eighth and Fourteenth Amendments, as alleged in your complaint." (ECF No.
22 30-2 at 33.) Request for admission two states, "Admit that defendant is not liable to you under
23 your second claim for relief for retaliation under the Fourteenth Amendment, as alleged in your
24 complaint." (Id.) Request for admission three states, "Admit that to your knowledge, the men
25 that attacked you on January 28, 2018 were not rival gang members." (Id.) Request for
26 admission four states, "Admit that you are not a gang member." (Id. at 34.) Request for
27 admission five states, "Admit that your own acts or omissions caused your injuries resulting from
28 the incident." (Id.)

1 Plaintiff denied all requests for admissions. (Id. at 33-34.)

2 Federal Rule of Civil Procedure 36 provides that “[a] party may serve on any other party a
3 written request to admit...the truth of any matters within the scope of Rule 26(b)(1) relating to...
4 facts, the application of law to fact, or opinions about either[.]” Fed. R. Civ. P. 36(a)(1). The
5 scope of Rule 26(b)(1) provides that matters “that [are] relevant to any party's claim or defense
6 and proportional to the needs of the case” are discoverable. If a responding party does not admit
7 a matter, the party “must specifically deny it or state in detail why the answering party cannot
8 truthfully admit or deny it.” Fed. R. Civ. P. 36(a)(4). “[W]hen good faith requires that a party
9 qualify an answer or deny only a part of a matter, the answer must specify the part admitted and
10 qualify or deny the rest.” Id.

11 “Requests for admission are “first, to facilitate proof with respect to issues that cannot be
12 eliminated from the case, and second to narrow the issues by eliminating those that can be. The
13 rule is not to be used in an effort to harass the other side.” Jones v. Skolnik, 2014 WL 2625000 at
14 * 1 (D. Nev. 2015) (quoting Conlon v. United States, 474 F.3d 616, 622 (9th Cir. 2007)).
15 Requests for admissions are designed to limit the factual issues in the case. Trachhia v. Tilton,
16 2008 WL 5382253 at * 2 (E.D. Cal. 2008).

17 Requests for admissions should not be used to establish “facts which are obviously in
18 dispute.” Lakehead Pipe Line Co. v. American Home Assur. Co., 177 F.R.D. 454, 458 (D. Minn.
19 1997). “Although the rule permits a party to ask another party to admit the truth of ‘the
20 application of law to facts,’ requests for admission should not be used to ‘demand that the other
21 party admit the truth of a legal conclusion,’” Tracchia, 2008 WL 5382253 *2 (quoting Disability
22 Rights Council v. Wash. Metro. Area, 234 F.R.D. 1, 3 (D.C. Cir. 2006)).

23 Defendant’s requests for admissions violate the strictures that such requests not seek to
24 establish facts in obvious dispute and not demand the opposite party to admit the truth of a legal
25 conclusion. For example, whether plaintiff caused his own injuries is in obvious dispute.
26 Defendant’s requests for admissions are not designed to limit the factual issues in this case.

27 Because defendant’s requests for admissions are improper, plaintiff is not required to
28 provide a further response to interrogatory no. 10. Accordingly, defendant’s motion to compel is

1 denied.¹

2 Plaintiff's Motion for Extension of Time

3 On February 27, 2019, the court issued a scheduling order setting the discovery deadline
4 for June 14, 2019, and the dispositive motion deadline for September 6, 2019. (ECF No. 28.)

5 On June 5, 2019, plaintiff filed a motion for a thirty-day extension of time "to review the
6 video footage in my discovery." (ECF No. 29 at 1.) Plaintiff also states that he would like an
7 injunction "for CDCR to release the CD that the court ordered for my discovery. They took it and
8 I'm still waiting for them to find it." (Id.)

9 On June 26, 2019, defendant filed an opposition to plaintiff's motion for extension of
10 time. (ECF No. 31.) Defendant argues that plaintiff does not require an extension of time to
11 review the video footage provided by defendant in the discovery responses. Defendant also states
12 that he has no control over the CDCR or its policies regarding withholding the CD from plaintiff.

13 The undersigned agrees that plaintiff does not require an extension of time to review the
14 video footage provided to him by defendant. The undersigned also agrees that defendant has no
15 control over when and whether CDCR officials will permit plaintiff to review the video footage.
16 For these reasons, plaintiff's motion for extension of time is denied.

17 If plaintiff has still not viewed the video footage by the time he receives this order, he may
18 file a motion requesting court assistance in reviewing the video footage. In this motion, plaintiff
19 shall describe his attempts to review the video footage, including to whom his requests were
20 made and when.

21 Accordingly, IT IS HEREBY ORDERED that:

22 1. Plaintiff's motion for a thirty days extension of time and request for return of CD (ECF
23 No. 29) is denied;

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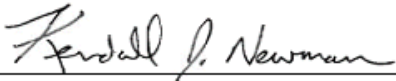
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28 ¹ "Discovery under the Federal Rules of Civil Procedure is not a game of 'gotcha.'" Grubbs v. Winn Dixie Properties, LLC, 2015 WL 3892555 at *1 (E.D. La. 2015).

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2. Defendant's motion to compel (ECF No. 30) is denied.

Dated: July 29, 2019


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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