

1 On July 1, 2020, the undersigned denied plaintiff's April 13, 2020 motion to compel.
2 (ECF No. 37.) The undersigned found that based on the Warden's response to plaintiff's motion
3 to compel, the litigation of plaintiff's claim that he was denied access to his medical and mental
4 health records was better left until after the settlement conference. (Id.)

5 On June 3, 2021, a settlement conference was held in this action. This action did not
6 settle. On June 21, 2021, plaintiff filed the pending motion to compel. (ECF No. 69.)


7 On July 12, 2021, defendant filed an opposition to plaintiff's pending motion compel.
8 (ECF No. 72.) Defendant argues that plaintiff's motion to compel should be denied because it
9 was filed before the court issued the Discovery and Scheduling Order.¹ Defendant also argues
10 that plaintiff fails to demonstrate that he served defendant with a request for production of the
11 documents he seeks in the motion to compel.

12 As discussed above, plaintiff previously requested most of the at-issue documents from
13 prison officials at Corcoran. However, in the pending motion, plaintiff requests that defendant be
14 ordered to provide him with the at-issue documents. Plaintiff apparently did not serve defendant
15 with a request for production of documents before filing the motion to compel.

16 Plaintiff may file a motion to compel only if he is dissatisfied with defendant's response to
17 his discovery request. Accordingly, plaintiff's motion to compel is denied as premature because
18 he did not serve defendant with a request for production of documents.

19 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to compel (ECF No. 69)
20 is denied.

21 Dated: August 4, 2021

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23 _____
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The Discovery and Scheduling order was filed on July 6, 2021. (ECF No. 71.)