

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARCUS HARRISON,

Plaintiff,

v.

E. SMITH, correctional officer,

Defendant.

No. C 08-4123 SI (pr)

**ORDER (1) DENYING DISCOVERY
AND PHOTOCOPY REQUESTS AND
(2) EXTENDING DEADLINES**A. Discovery

Plaintiff filed a motion to confer with defense counsel and an amended request for admissions on June 28, 2010. The motion and request are DENIED. (Docket # 25.) As the court specifically explained in an order filed just a month earlier, discovery requests are not supposed to be filed with the court and the parties are to meet and confer before asking the court to intervene in discovery disputes. See May 12, 2010 Order Denying Discovery Requests and Scheduling Dispositive Motions.

Not only was plaintiff instructed in this case to not file discovery requests and to meet and confer before asking the court to intervene in discovery disputes, he has repeatedly been provided with essentially the same instructions in three other cases he has filed. See Harrison v. McDonald, C 04-5456 SI (Order Staying Discovery and Extending Deadlines On Summary Judgment); Harrison v. Sample, C 07-959 SI (Order Denying Discovery Motion); Harrison v. IGI, C 07-3824 SI (Order On Miscellaneous Matters And Referring Case To Mediation Program). In each of these orders, the court has cited the Federal Rules of Civil Procedure and the court's Local Rules, and never has indicated that the instructions were case-specific. Plaintiff's decision to file documents that disregard the court's explicit directions is vexatious

1 and abusive. Flagrant abuse of the judicial process will not be tolerated because it enables one
2 person to preempt the use of judicial time that properly could be used to consider the meritorious
3 claims of other litigants. See De Long v. Hennessey, 912 F.2d 1144, 1148 (9th Cir. 1990).
4 Plaintiff is now given notice that he may be sanctioned if he again files a document that
5 disregards this court's instructions regarding discovery. The sanctions that may result include
6 issue preclusion, discovery preclusion, dismissal of an action, and/or monetary sanctions.

7
8 B. Photocopies

9 Pelican Bay apparently has a policy that states that staff will not duplicate a legal
10 document exceeding 100 pages in length unless the staff receives a court order directing such
11 duplication. Plaintiff wants the court to issue such an order, and to that end has filed a motion
12 to set aside the briefing schedule on the pending dispositive motion until such an order is
13 granted. Upon due consideration, the court DENIES the request for an order requiring prison
14 officials to exceed the normal photocopy limits to reproduce documents of an unstated length
15 for plaintiff. (Docket # 30, # 28.)

16 Plaintiff has not shown a genuine need to exceed the page limits and the circumstances
17 suggest that he should be able to present an opposition with supporting evidence that easily
18 complies with the 100 page limit on photocopying. First, there are page limits on legal briefs
19 in this court: motions and oppositions must not exceed 25 pages and reply briefs must not
20 exceed 15 pages of text. Long-winded and repetitive briefs are unwelcome, regardless of
21 whether they are filed by attorneys or unrepresented litigants. Second, declarations should only
22 include statements of fact, and not legal arguments and not case citations. Legal arguments and
23 case citations generally should be confined to the legal briefs. Plaintiff generates unnecessarily
24 long documents by putting legal arguments and case citations in places they don't belong. For
25 example, his second amended complaint was lengthened considerably by unnecessary inclusion
26 of legal argument and citations. See Second Amended Complaint, pp. 5, 7-15, 18. Third, there
27 is no reason to attach as an exhibit any document that has already been filed in this action. The
28 court has access to the whole court file for this action, so a simple and clear reference to the

1 document and page being cited is sufficient to enable the court to find the material a party wants
2 considered. It is a waste of resources to attach to plaintiff's opposition as exhibits a copy of the
3 opponent's motion or plaintiff's complaint in the same action, yet this is exactly what plaintiff
4 has done in past cases. See, e.g., Harrison v. IGI, No. C 07-3824 SI, docket # 31 (opposition
5 to motion to dismiss attaching as Exhibit C the defendants' motion to dismiss and as Exhibit I
6 the second amended complaint). Plaintiff can use existing exhibits and documents that have
7 been filed by him or defendant without filing a new copy of them. Numerous pages of exhibits
8 were submitted as exhibits to the second amended complaint and to the declarations filed in
9 support of defendant's motion. To have the court consider any of these existing documents, all
10 that plaintiff needs to do is to provide an accurate reference to the page and document. Fourth,
11 there is no reason or need to submit as exhibits copies of a regulation, statute or published case
12 because the court has ready access to these. Fifth, briefs and evidentiary presentations often can
13 be made more concise by careful attention to details before they are sent to the court (or to the
14 photocopying shop). Several of plaintiff's filings have shown that he has hastily sent out
15 documents (see docket # 4, # 7, # 8, # 9 – mentioning preparation errors in earlier filings);
16 greater care should be exercised to ensure that the first filing is done right. If plaintiff follows
17 these directions, the document he prepares likely will be shorter than the 100+ page thing he is
18 contemplating. Finally, a party without access to unlimited photocopies can always make copies
19 of his briefs and declarations the old-fashioned way, i.e., by handwriting out a second copy that
20 is an accurate reproduction of the first.

21 / / /
22 / / /


23
24
25
26
27
28

1 C. Briefing Schedule

2 Plaintiff's request for an extension of time to file his opposition to the pending dispositive
3 motion is GRANTED. (Docket # 28, # 30.) Plaintiff must file and serve his opposition to the
4 motion to dismiss and/or for summary judgment no later than **November 4, 2010**. No further
5 extensions of this deadline will be granted. Defendant must file and serve his reply no later than
6 **November 22, 2010**.

7 IT IS SO ORDERED.

8 Dated: October 12, 2010



SUSAN ILLSTON
United States District Judge

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28