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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THEODORE SHOVE,
Plaintiff,
v.
MCDONALD, et al.,
Defendants.

Case No. [14-cv-02903-JD](#)

ORDER ON MOTIONS

Re: Dkt. Nos. 125, 127, 133, 138, 141, 149

This is a civil rights case brought pro se by a state prisoner. The Court denied defendants’ motion to dismiss as a sanction for plaintiff’s failure to submit to a deposition. The Court noted that while plaintiff’s conduct was not acceptable, dismissing the case was a drastic sanction that was not warranted at the time. Although defendants have filed a motion for summary judgment, they reported that plaintiff sat for the deposition but refused to answer many questions. This order addresses several motions filed by plaintiff, and a motion for an extension filed by defendants.

Plaintiff has filed a motion for recusal under 28 U.S.C. § 455 on the grounds that the Court has made adverse rulings against him and ordered him to sit for a deposition. Section 455 may support recusal when the judge: (a) has a personal bias or prejudice against a party; (b) has personal knowledge of disputed evidentiary facts; (c) either before or after becoming a judge was related to or connected with the case, the parties or their attorneys; or (d) the judge or a relative has a financial interest in the subject matter in controversy or a party to the proceeding or any interest that would be substantially affected by the outcome of the proceedings. § 455(b)(1)-(4).

None of these conditions exists here, and mere dissatisfaction with the Court’s rulings is no basis for recusal. *See Leslie v. Grupo ICA*, 198 F.3d 1152, 1160 (9th Cir. 1999). And as the record shows, the Court has issued orders “adverse” to both sides’ requests at various times in the

1 case. Recusal is denied.

2 Plaintiff will be given an extension to file an opposition to the motion for summary
3 judgment. Plaintiff should use this time to prepare his opposition.

4 The Court has serious concerns about the number of frivolous motions and other papers
5 plaintiff is filing in this case. If this unacceptable conduct continues, the Court will summarily
6 strike plaintiff's filings, and will consider entering a pre-filing screening requirement.

7 In addition to that admonition, the Court orders:

8 1. Plaintiff's motion for judgment (Docket No. 125) is **DENIED** for the same reasons as
9 set forth in several prior orders.

10 2. Plaintiff's motion for recusal (Docket No. 127) is **DENIED**.

11 3. Defendants' request for an extension of time (Docket No. 133) is **GRANTED** and the
12 motion for summary judgment is deemed timely filed.

13 4. Plaintiff's motion to compel (Docket No. 138) is **DENIED** because plaintiff has failed
14 to describe his discovery requests and defendants have provided discovery responses.

15 5. Plaintiff's motion to supplement (Docket No. 141) is **DENIED**. Plaintiff may include
16 these exhibits and arguments in his opposition to the summary judgment motion.

17 6. Plaintiff's request for an extension of time (Docket No. 149) is **GRANTED** and the
18 opposition to the motion for summary judgment will be filed by **September 10, 2018**.

19 Each party is advised that a failure to adhere to these orders will result in sanctions,
20 including dismissal of the case under Federal Rule of Civil Procedure 41(b).

21 **IT IS SO ORDERED.**

22 Dated: August 14, 2018

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JAMES DONATO
United States District Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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Plaintiff,

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Case No. [14-cv-02903-JD](#)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 14, 2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Theodore Shove ID: G11092
San Quentin State Prison
San Quentin, CA 94974

Dated: August 14, 2018

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO