

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
28

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. 85, 87, 92

This is a civil rights case brought pro se by a state prisoner. The Court granted defendants’ motion to revoke plaintiff’s in forma pauperis (“IFP”) status. The case was dismissed and closed after plaintiff failed to pay the filing fee. The Ninth Circuit reversed and remanded in light of two recently decided cases that clarified what dismissals may constitute strikes. Docket No. 50. On August 8, 2017, the case was reopened and defendants filed a second motion to revoke plaintiff’s IFP status identifying different cases not raised in the first motion. The Court summarily denied the motion in light of the Ninth Circuit cases cited in the remand order and the facts in this case.

Defendants now move for leave to file a motion of reconsideration of the order denying the second motion to revoke plaintiff’s IFP status. Pursuant to Northern District of California Civil Local rule 7-9(b)(3), the Court does not find a manifest failure to warrant leave to file a motion for reconsideration. Plaintiff has also filed a motion to compel, yet failed to first seek the discovery from defendants whom have indicated that they will treat the motion as a request for production of documents and will respond to it. Plaintiff’s motion is denied.

CONCLUSION

1. Defendants’ motion for leave to file a motion for reconsideration (Docket No. 85) is **DENIED**.

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
28

2. Plaintiff's motion to compel discovery and for sanctions (Docket No. 87) is **DENIED** as frivolous and because defendants will respond to the motion as a discovery request.

3. Good cause appearing, defendants' request for an extension of time (Docket No. 92) is **GRANTED**. Defendants may file a dispositive motion by **April 6, 2018**.

4. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed of any change of address by filing a separate paper with the clerk headed "Notice of Change of Address," and must comply with the Court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

Dated: January 18, 2018



JAMES DONATO
United States District Judge

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 THEODORE SHOVE,
4 Plaintiff,

5 v.

6 MCDONALD, et al.,
7 Defendants.
8

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

CERTIFICATE OF SERVICE

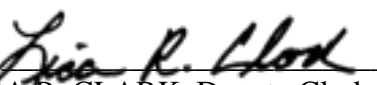
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on January 18, 2018, I SERVED a true and correct copy(ies) of the attached, by
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
15 receptacle located in the Clerk's office.
16

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

20 Dated: January 18, 2018

21
22 Susan Y. Soong
23 Clerk, United States District Court

24
25 By: 
26 LISA R. CLARK, Deputy Clerk to the
27 Honorable JAMES DONATO
28