

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HOOMAN PANAH, an individual,
Plaintiff,

v.

STATE OF CALIFORNIA DEPT. OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

Case No. 14-00166 BLF (PR)

**ORDER DENYING MOTION FOR
EXTENSION OF TIME TO FILE
SUPPLEMENTAL BRIEFING;
STRIKING SUPPLEMENTAL
BRIEFING; DENYING MOTION
FOR DISCOVERY; GRANTING
MOTION TO FILE UNDER SEAL**

(Docket Nos. 171, 185, 187)

Plaintiff, an inmate on death row at California’s San Quentin State Prison (“SQSP”), filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983, alleging unconstitutional acts by SQSP correctional officers. The Court addresses several pending matters below.

DISCUSSION

A. Motion for Extension of Time to File Supplemental Briefing

On February 5, 2020, the Defendants filed a motion to dismiss. Dkt. No. 163. On March 18, 2020, Plaintiff filed opposition with exhibits, totaling 90 pages in length, Dkt. No. 177, and then a notice of errata on March 23, 2020, to make corrections to his

1 opposition, Dkt. No. 184. Defendants filed a reply on March 26, 2020. Dkt. No. 179.
2 Then on March 31, 2020, Plaintiff filed a supplemental briefing, construing his recent
3 receipt of the Court’s order granting him an extension of time, Dkt. No. 176, as license to
4 do so. Dkt. No. 181. He again filed additional arguments in support of his opposition
5 brief with his response to discovery on April 9, 2020. Dkt. No. 182.

6 Then on April 30, 2020, Plaintiff filed a request for a stay on the ruling of
7 Defendants’ motion to dismiss due to the global pandemic, seeking ninety days to submit a
8 supplemental opposition. Dkt. No. 185. Defendants oppose the motion, asserting that
9 Plaintiff not only has already filed an 87-page opposition, but filed several additional
10 papers thereafter. Dkt. No. 186, citing Dkt. Nos. 177, 181, 182. Plaintiff asserts in his
11 reply to Defendants’ opposition that he should be given more “breathing room” as a pro se
12 litigant, that Defendants’ evidence is not credible, and that he needs more time to gather
13 more supporting cases. Dkt. No. 189.

14 The Court finds no good cause to grant Plaintiff’s motion. Defendants’ motion to
15 dismiss became submitted before prisons began to adjust and limit programs due to
16 COVID-19, and Plaintiff made no indication in his initial opposition or supplementals filed
17 through April 9, 2020, that he was unable to prepare adequate papers. Plaintiff may not
18 argue now that changed circumstances should delay ruling on a matter that became
19 submitted before such challenges arose. Furthermore, Plaintiff has already been granted
20 much leeway in this matter, including being permitted to file excessively lengthy briefs
21 and exhibits, and his pro se status simply does not entitle him to endless briefing. With
22 respect to the credibility of Defendants’ evidence, Plaintiff had ample opportunity to
23 challenge it in his original opposition. Dkt. No. 177. Lastly, Plaintiff provides no
24 explanation as to why the cases he relies on in his 63-page long opposition brief is
25 inadequate such that he needs to provide more cases. Based on the foregoing, the Court
26 finds no good cause to allow Plaintiff to submit additional briefing on Defendants’ motion
27 to dismiss. Accordingly, Plaintiff’s motion for an extension of time and stay is DENIED.

1 Dkt. No. 185.

2 Furthermore, the Local Rules provide that once a reply is filed, “no additional
3 memoranda, papers or letters may be filed without prior Court approval” except to file an
4 objection to new evidence submitted in the reply or to bring to the Court’s attention a
5 relevant judicial opinion published after the date the opposition or reply was filed. Civil
6 L.R. 7-3(d)(1), (2). An objection to reply evidence must be filed and served not more than
7 10 days after the reply was filed. *Id.* The Court notes that Plaintiff filed several
8 supplemental responses and rebuttals on June 9, 2020, June 24, 2020, and August 7, 2020,
9 which is long after the 10-day period had expired after Defendants filed their reply on
10 March 26, 2020. Dkt. Nos. Dkt. Nos. 189, 190, 191, 193, 198. Nor did Plaintiff seek and
11 obtain prior Court approval before filing these additional briefs, and his motion for
12 extension of time to do so has been denied. *See supra* at 2. Accordingly, Plaintiff’s
13 supplemental responses and rebuttals filed on June 9, 2020, June 24, and August 17, 2020,
14 shall be STRICKEN as unpermitted sur-replies. Dkt. Nos. 189, 190, 191, 193, 198.
15 Defendants’ motion to dismiss is deemed submitted, and no further briefing shall be
16 accepted on the matter unless by court order.

17 **B. Motion for Discovery**

18 On May 26, 2020, Plaintiff filed a “notice of motion and motion for discovery,”
19 which includes a copy of a letter dated May 12, 2020, to Defendants’ counsel requesting
20 additional discovery. Dkt. No. 187 at 2. On May 29, 2020, Defendants filed a response to
21 the motion, stating that Plaintiff served them with a request for production of documents
22 on May 20, 2020. Dkt. No. 188. Defendants assert that they have thirty-three days to
23 respond, and therefore Plaintiff’s motion to compel is premature. *Id.* In reply, Plaintiff
24 asserts that his discovery request includes those he previously requested in a prior motion
25 to compel. Dkt. No. 192, citing to Dkt. No. 158. However, the Court granted Defendants’
26 motion to defer briefing on that motion to compel until after the Court decides their motion
27 to dismiss and for sanctions, and stayed briefing. Dkt. No. 168. Plaintiff may not
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1 circumvent that order by essentially filing another motion to compel. Accordingly,
2 Plaintiff's motion for discovery is DENIED as premature with respect to new requests, and
3 without prejudice with regards to the old requests pending the Court's consideration of
4 Defendants pending motions.

5 **C. Motion to File Under Seal**

6 Plaintiff filed a motion to file under seal documents containing private mental-
7 health records. Dkt. No. 171. Good cause appearing, the motion is GRANTED.

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CONCLUSION

10 For the foregoing reasons, the Court orders as follows:

11 1. Plaintiff's motion for extension of time to file additional supplemental
12 briefing is **DENIED**. Dkt. No. 185. The sur-replies that were filed under Docket Nos.
13 189, 190, 191, 193, 198 shall be **STRICKEN**.


14 2. Plaintiff's motion for discovery is DENIED as premature and without
15 prejudice pending the Court's consideration of Defendants' motions for sanctions and to
16 dismiss. Dkt. No. 187.

17 3. Plaintiff's motion to file private health documents under seal is GRANTED.
18 Dkt. No. 171.

19 This order terminates Docket Nos. 171, 185, and 187.

20 **IT IS SO ORDERED**

21 Dated: August 21, 2020


BETH LABSON FREEMAN
United States District Judge

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Order Addressing Pending Mots.
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