

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  
SOUTHERN DISTRICT OF CALIFORNIA**

DALE R. HURD,

Plaintiff,

vs.

GEORGE GIURBINO, Warden, et al.,

Defendant.

CASE NO. 02cv460-BEN (WMC)

ORDER

On June 7, 2010, the Court held a further telephonic status conference in the above captioned case. Participating were Dale Hurd (Plaintiff) and Michelle DesJardins (counsel for Defendants).

After hearing from the parties and reviewing the applicable pleadings regarding Plaintiff's outstanding request for discovery, the Court finds no additional discovery exists that would provide Plaintiff with needed facts demonstrating a genuine issue of material fact. Specifically, the most recent pleadings submitted by Plaintiff deviate from the purpose of Federal Rule of Civil Procedure 56(f) which is to allow the party opposing summary judgment time to discover and "produce 'specific facts showing that there remains a genuine factual issue for trial.'" *Steckl v. Motorola, Inc.*, 703, F2d 392, 393 (9<sup>th</sup> Cir. 1983).

A review of the case history shows Defendants have provided to Plaintiff hundreds of pages of discovery throughout the case. In addition, the Court has recently completed an extensive *in camera* review of three boxes of documents submitted by Defendants. [See Court's Order of

1 April 8, 2009, Doc. No. 196]. The Court also compared the Plaintiff's copies of discovery (i.e.  
2 redacted copies) to the originals in the files and determined the redactions do not withhold relevant  
3 evidence.

4 Following the *in camera* review, the Court has determined no discovery germane to the  
5 issues presented in this case has been withheld. It is the Court's impression that Plaintiff believes  
6 a "smoking gun" lies buried within the Defendants' files. The Court has found no such document.  
7 In conclusion, the Court is satisfied Plaintiff has not been prejudiced by the denial of additional  
8 discovery he believes would demonstrate a genuine issue of material fact. Accordingly, Plaintiff's  
9 request for additional discovery is **denied**.

10 IT IS SO ORDERED.

11  
12 DATED: July 8, 2010

13 

14 Hon. William McCurine, Jr.  
15 U.S. Magistrate Judge  
16 United States District Court