

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY ANDERSON,

Plaintiff,

Case No. 17-12676

v.

District Judge Victoria A. Roberts
Magistrate Judge Anthony P. Patti

COLTER FURST, et al.,

Defendants.

**ORDER GRANTING IN PART PLAINTIFF'S MOTION TO EXTEND
DISCOVERY DEADLINE (DE 59)**

Plaintiff, a state prisoner who is proceeding *in forma pauperis*, brings this prisoner civil rights lawsuit against three defendants, Colter Furst, Michael Thomas and Nathan Ellis, all Michigan State Police Troopers, alleging they violated his rights under the Fourth Amendment by using excessive force during his arrest on September 4, 2015. (DE 1.) He seeks injunctive and declaratory relief, in addition to compensatory and punitive damages. (*Id.*) All Defendants have been served and have filed their Answer. (DE 14.)

On October 15, 2018, Plaintiff Jerry Anderson filed a motion to extend discovery deadline. (DE 59.) Plaintiff complains that Defendants have provided “very slow or not at all responses to plaintiff’s pleadings and plaintiff has been provided with little to none [sic] discovery of relevance,” and seeks to extend the

discovery deadline from November 1, 2018 to April 7, 2019. (*Id.*) Defendants state in response that Plaintiff is now on his third set of written discovery, which they assert “is enough,” and that they are “amenable to an extension of discovery of 30-60 days to allow the litigation of any already served discovery.” (DE 62.)

For good cause shown, Plaintiff’s motion is **GRANTED IN PART**.

Discovery may proceed and must be completed on or before **DECEMBER 17, 2018**. The Court does not adopt Defendants’ suggestion that additional discovery within this new deadline be limited to “already served discovery.” Plaintiff’s discovery thus far appears to have been modest in quantity, notwithstanding his having divided it into multiple requests. Any motions related to discovery must be filed on or before **JANUARY 31, 2019**. **There will be no further extensions of the discovery deadline.**

Further, Defendants must file *any motion* averring a failure to exhaust administrative remedies, raising the defense of qualified immunity, or for dismissal under Rule 12 on or before **JANUARY 14, 2019**. If Defendants do not file a timely motion raising the defense of qualified immunity or averring a failure to exhaust administrative remedies, these defenses may still be raised at trial, but cannot be raised by way of a pre-trial motion unless Defendants first demonstrate exceptional circumstances. The Court’s granting of a petition for recruitment of

pro bono counsel for Plaintiff, if ever, or the setting of a date for trial or evidentiary hearing do not constitute exceptional circumstances.

In addition, the parties shall file all other motions for summary judgment, if any, on or before **MARCH 15, 2019**. (Note: If Defendants choose to proceed with what turns out to be an unsuccessful motion for summary judgment based upon failure to exhaust administrative remedies, they will not be prohibited from subsequently filing one additional Rule 56 motion on the merits within the deadline herein established, notwithstanding the provisions of E.D. Mich. LR 7.1(b)(2).) Summary judgment motions may not be filed before the close of discovery, **DECEMBER 17, 2018**. (See DE 16.)

IT IS SO ORDERED.

Dated: October 24, 2018

s/*Anthony P. Patti*

Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on October 24, 2018, electronically and/or by U.S. Mail.

s/Michael Williams
Case Manager for the
Honorable Anthony P. Patti