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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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09 ANTHONY G. HERBERT,

10 Plaintiff,

Case No. C13-0044-TSZ-MAT

11 v.

ORDER RE: PENDING MOTIONS

12 WALTER LOVELL, *et al.*,

13 Defendants.

14

15 This is a civil rights action brought under 42 U.S.C. § 1983. Currently pending before the  
16 Court are plaintiff's motion for the Court to begin the discovery process, defendants' motion for  
17 summary judgment, and plaintiff's motion for a continuance of defendants' summary judgment  
18 motion. The Court, having reviewed the pending motions, and the balance of the record, does  
19 hereby find and ORDER as follows:

20 (1) Plaintiff's motion for the Court to begin the discovery process (Dkt. No. 32) is  
21 DENIED. Plaintiff asserts in the instant motion that he has not received an order from the  
22 Court concerning discovery and he asks the Court to clarify whether the discovery process has

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01 begun. The record reflects that the Court issued a pretrial scheduling order on May 17, 2013  
02 which established a discovery deadline of August 14, 2013. (Dkt. No. 24.) A copy of that  
03 Order was mailed to plaintiff at the King County Correctional Facility (KCCF), plaintiff's  
04 address of record at that time, but it appears that plaintiff was actually at Western State Hospital  
05 (WSH) at the time the order was sent. (Dkt. No. 25.) In a letter received by the Clerk of Court  
06 on May 21, 2013, plaintiff advised that his address had changed and he requested that any  
07 orders sent to him at KCCF from May 13, 2013 to the date of the letter be re-sent to him at WSH.  
08 (Dkt. No. 25.) For reasons that aren't clear from the record, the pretrial scheduling order was  
09 apparently never re-sent to plaintiff at WSH.

10 While it is concerning that plaintiff apparently never received the Court's scheduling  
11 order, nothing in the record suggests that plaintiff's lack of information concerning scheduling  
12 deadlines inhibited his ability to obtain the discovery necessary to litigate this case. Plaintiff  
13 indicates in the instant motion that he served interrogatories and requests for production of  
14 documents on defendants in this case. He does not indicate what, if any, additional discovery  
15 is necessary. Similarly, plaintiff does not indicate in his recently filed motion requesting a  
16 continuance of defendants' summary judgment motion that additional discovery is required in  
17 order for him to adequately respond to defendants' motion. Because the discovery deadline  
18 previously established by the Court has passed, and because nothing in the record suggests that  
19 there is any need for additional discovery at this juncture, the Court declines to issue the order  
20 requested by plaintiff.

21 (2) Plaintiff's motion for a continuance of the summary judgment deadline (Dkt. No.  
22 36) is GRANTED. Plaintiff is directed to file and serve any response to defendants' motion

01 for summary judgment not later than *November 18, 2013*. Defendants' motion for summary  
02 judgment (Dkt. No. 33) is RENOTED for consideration on *November 22, 2013*.

03 (3) The Clerk is directed to send a copy of this Order to plaintiff, to counsel for  
04 defendants, and to the Honorable Thomas S. Zilly.

05 DATED this 24th day of October, 2013.

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08 Mary Alice Theiler  
09 Chief United States Magistrate Judge  
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