UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CULLEN M. HANKERSON,

Plaintiff,

v.

DEPARTMENT OF RISK MANAGEMENT, et al.,

Defendants.

CASE NO. C13-6036 BHS

ORDER OVERRULING PLAINTIFF'S OBJECTIONS

This matter comes before the Court on Plaintiff Cullen Hankerson's ("Hankerson") objections to the Magistrate's Order Regarding Plaintiff's Outstanding Motions (Dkt. 49). The Court has considered Hankerson's objections and the remainder of the file and hereby overrules Hankerson's objections for the reasons stated herein.

I. PROCEDURAL AND FACTUAL BACKGROUND

On October 4, 2013, Hankerson filed a 42 U.S.C. § 1983 suit against Defendants Department of Risk Management, Greg Pressel, Mary Ellen Combo, John Doe, and Jane Doe ("Defendants") in Thurston County Superior Court. Dkt. 1. Hankerson alleges that

Defendants violated his civil rights by preventing him from taking his legal materials from county jail to prison. *Id.* On December 3, 2013, Defendants removed the action to this court. *Id.*

On July 16, 2014, Defendants filed a motion for summary judgment. Dkt. 24.

On July 28, 2014, Hankerson filed three motions. First, Hankerson moved for production of discovery. Dkt. 30. Second, Hankerson moved to strike Defendants' motion for summary judgment as untimely. Dkt. 31. Third, Hankerson moved to extend all case scheduling deadlines for 120 days. Dkt. 32.

On August 25, 2014, United States Magistrate Judge Karen L. Strombom issued an order regarding Hankerson's three motions. Dkt. 44. Judge Strombom denied Hankerson's discovery motion because Hankerson did not follow the Local Rules and did not prove that any discovery was outstanding in the case. *Id.* at 2. Next, Judge Strombom denied Hankerson's motion to strike because Hankerson failed to show that Defendants' summary judgment motion was untimely. *Id.* at 3–4. Finally, Judge Strombom denied Hankerson's motion to extend scheduling deadlines, but did give Hankerson some additional time to file a response to Defendants' summary judgment motion. *Id.* at 5.

On August 25, 2014, Hankerson filed a Motion to Object to Magistrate's Order Regarding Plaintiff's Outstanding Motions. Dkt. 49.

II. DISCUSSION

The Court construes Hankerson's motion as an objection to Judge Strombom's order under Federal Rule of Civil Procedure 72(a). Rule 72(a) provides that the Court

"must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a).

Judge Strombom's denial of Hankerson's motions is not clearly erroneous or contrary to law. In regards to Hankerson's discovery motion, Local Rule 37(a)(1) requires that Hankerson meet and confer with counsel prior to bringing a motion to compel discovery. *See* Local Rules, W.D. Wash. LCR 37(a)(1). Hankerson failed to show that he satisfied the meet and confer requirement. *See* Dkt. 30; *see also* Dkt. 38, Declaration of Elizabeth A. Baker ("Baker Dec.") ¶¶ 19–20. Moreover, Defendants asserted that no discovery was outstanding and that Hankerson did not seek any discovery. Dkt. 37 at 6; Baker Dec. ¶¶ 17–19. Hankerson did not present any evidence that contradicted Defendants' assertions. *See* Dkt. 43. Accordingly, Judge Strombom properly denied Hankerson's motion for production of discovery.

As for Hankerson's motion to strike, Hankerson failed to show that Defendants' summary judgment motion was untimely. Hankerson argued that there was a discovery issue, but did not present any evidence to support this argument. *See* Dkt. 31. Additionally, Defendants' summary judgment motion was filed well in advance of the dispositive motion deadline of October 24, 2014. *See* Dkts. 22, 24. Judge Strombom properly denied Hankerson's motion to strike.

Finally, Hankerson failed to show cause for an extension of the scheduling deadlines. Hankerson did, however, show cause for a brief extension of time to file a response to Defendants' summary judgment motion. *See* Dkt. 32 at 2–4. Accordingly, Judge Strombom properly denied Hankerson's motion to extend scheduling deadlines.

She also properly gave Hankerson additional time to file a response to Defendants' motion.

III. ORDER

Therefore, it is hereby **ORDERED** that Hankerson's objections to the Magistrate's Order Regarding Plaintiff's Outstanding Motions (Dkt. 49) are **OVERRULED**.

Dated this 20th day of October, 2014.

BENJAMIN H. SETTLE
United States District Judge