

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 CLARENCE JAY FAULKNER,

11 Plaintiff,

12 v.

13 ISRAEL "ROY" GONZALEZ, MICHAEL
14 PARIS, LIZA ROHRER, CHERYL
15 SULLIVAN, TERRI MATSEN,
WASHINGTON DEPARTMENT OF
CORRECTIONS,

16 Defendants.

CASE NO. 3:15-CV-05072-RJB-JRC

ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL

17
18 Before the Court is plaintiff's motion to compel discovery. Dkt. 19. The Court deferred
19 ruling on plaintiff's motion until November 4, 2015 after defendants filed a status report and
20 plaintiff filed a reply. Dkt. 23.

21 BACKGROUND

22 As an initial matter, the Court notes that there has been confusion surrounding whether
23 plaintiff intended to substitute or supplement his first set of discovery requests, and it was not
24 clear what discovery defendants had provided to plaintiff. *See* Dkt. 23. Thus, the Court deferred

1 ruling on plaintiff's motion to compel until November 4, 2015, after a status report had been
2 filed by defendants and plaintiff filed a reply.

3 Defendants filed their status report on October 21, 2015. Dkt. 24. Defendants state that
4 the parties conferred on October 19, 2015 and reached a consensus on how to move forward with
5 discovery. *Id.* Defendants agreed to address plaintiff's discovery requests "to the extent possible"
6 by October 30, 2015. *Id.* In addition, defendants agreed that plaintiff may promulgate five
7 additional interrogatories and five additional requests for production. *Id.*

8 Plaintiff filed his response on October 26, 2015. Dkt. 25. Plaintiff states that he conferred
9 with counsel for defendants, Mr. Dittman, on October 7, 2015. *Id.* Plaintiff states that Mr.
10 Dittman told plaintiff that he would get back to plaintiff on October 12, 2015 to resume the
11 discovery conference, but plaintiff asserts that this meeting never occurred. *Id.* Plaintiff does not
12 address whether the parties conferred on October 19, 2015 or whether defendants addressed
13 plaintiff's discovery responses. *Id.*

14 On November 5, 2015, plaintiff filed a declaration in support of his response. Dkt. 26.
15 Plaintiff acknowledges that the parties conferred on October 19, 2015. However, plaintiff states
16 that as of November 3, 2015, defendants have not contacted plaintiff nor have defendants
17 provided the answers and productions noted in the status report. Dkt. 26. It is unclear what
18 plaintiff refers to as the "answers and productions noted in the status report," but based on the
19 status report filed by defendants, the Court interprets this as plaintiff's allegation that defendants
20 have failed to respond to his additional five interrogatories and requests for production.

21 DISCUSSION

22 When a party fails to answer an interrogatory under Rule 33 or fails to permit inspection
23 of documents under Rule 34, the requesting party may move the court for an order compelling
24

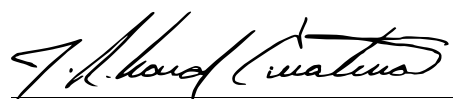
1 | discovery. Fed. R. Civ. P. 37(a)(3). For purposes of such a motion, “an evasive or incomplete
2 | disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.” Fed.
3 | R. Civ. P. 37(a)(4).

4 | To the extent that plaintiff moves to compel defendants to submit responses to his
5 | additional discovery requests, under Federal Rule of Civil Procedure 33 (Interrogatories to
6 | Parties) and Federal Rule of Civil Procedure 34 (Requests for Production), a party to whom the
7 | interrogatory or request is directed has 30 days to respond unless otherwise ordered by the Court
8 | or agreed upon by the parties. *See* Fed. R. Civ. P. 33(2) and Fed. R. Civ. P. 34(2)(a).

9 | Here, plaintiff’s response and declaration do not state that his interrogatories or requests
10 | for production have been pending for more than 30 days or that a shorter time was stipulated to
11 | under Federal Rule of Civil Procedure 29. According to plaintiff’s declaration, defendants have
12 | failed to produce “answers and productions as noted in the status report submitted to the Court
13 | on October 21, 2015.” Dkt. 26. Plaintiff’s response and declaration are vague and unspecific.
14 | Without any specific facts showing how defendants’ responses to plaintiff’s additional
15 | interrogatories and requests for production were deficient or untimely, the Court cannot compel
16 | defendants to provide a further response.

17 | Accordingly, plaintiff’s motion to compel is denied without prejudice. The Court notes
18 | that plaintiff may file a renewed motion to compel stating specific facts regarding when plaintiff
19 | submitted his discovery requests, what responses, if any, plaintiff received from defendants, and
20 | how defendants’ responses are untimely or deficient.

21 | Dated this 10th day of November, 2015.

22 | 

23 | J. Richard Creatura
24 | United States Magistrate Judge