

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Curtis Snowden, III v. A. Scott, et al.

Snowden v. Scott · No. 2:22-cv-1444 DJC SCR P · Decided March 28, 2025

SUMMARY

The United States District Court for the Eastern District of California grants defendants Scott and Jones’s motion to compel responses to discovery requests in this 42 U.S.C. § 1983 action. The court orders plaintiff to respond within fifteen days, awards \$285 in discovery-related expenses, and stays enforcement of the fee assessment pending a showing of plaintiff’s ability to pay.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 28, 2025
DOCKET	2:22-cv-1444 DJC SCR P
DISPOSITION	other
PROCEDURAL POSTURE	In a 42 U.S.C. § 1983 action alleging Eighth Amendment violations, defendants Scott and Jones moved to compel responses to discovery requests and sought \$285 in expenses incurred in preparing the motion.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order
PARTIES	Curtis Snowden, III v. A. Scott, Jones, Yang

TOPICS

- discovery dispute
- sanctions
- attorney fees
- prisoners rights
- civil rights

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- discovery
- sanctions

QUESTIONS PRESENTED

1. Whether plaintiff's failure to oppose the motion to compel and comply with the order to show cause constituted a waiver of opposition under Local Rule 230(l).
2. Whether defendants were entitled to an order compelling plaintiff to respond to the discovery requests.
3. Whether defendants were entitled to recover \$285 in reasonable expenses incurred in preparing the motion to compel.
4. Whether enforcement of the expense award should be stayed because plaintiff was proceeding in forma pauperis.

HOLDINGS

1. Under Local Rule 230(l), plaintiff's failure to respond to the motion to compel or show good cause for his untimely response constituted a waiver of opposition.
2. The motion to compel was granted, and plaintiff was ordered to respond to Jones's interrogatories and Scott's request for production of documents within fifteen days.
3. Defendants Scott and Jones were entitled to \$285 in reasonable expenses incurred in preparing the motion to compel, notwithstanding plaintiff's pro se status.
4. Enforcement of the \$285 expense award was stayed because plaintiff was proceeding in forma pauperis, subject to defendants' ability to move to lift the stay upon a showing that plaintiff could pay.

KEY QUOTATIONS

“Plaintiff has not filed a response to defendants’ motion to compel or to this court’s order to show cause. Accordingly, pursuant to Local Rule 230(l), the court deems plaintiff’s failure a waiver of opposition and grants defendants’ motion to compel.” (at 1)

FACTUAL BACKGROUND

Defendants Scott and Jones served plaintiff with interrogatories and requests for production, but plaintiff provided no responses. Defendants attempted to meet and confer by letter before filing their motion to compel. Plaintiff did not respond to the motion or to the court's subsequent order to show cause.

PROCEDURAL HISTORY

Plaintiff, a former state prisoner proceeding pro se and in forma pauperis, did not timely oppose defendants' motion to compel. After the court issued an order to show cause and warned that failure to respond would waive opposition, plaintiff filed neither a response nor an explanation. The court deemed opposition waived, granted the motion to compel, awarded \$285 in expenses, and stayed enforcement of the fee assessment pending a showing of plaintiff's ability to pay.

DISPOSITION

other

CASES CITED

- Warren v. Guelker, 29 F.3d 1386, 1390 (9th Cir. 1994)
- Thomas v. Gerber Prod., 703 F.2d 353, 357 (9th Cir. 1983)
- Shabazz v. Giurbino, No. 1:11-cv-1558 DAD SAB PC, 2016 WL 4992684, at *3 (E.D. Cal. Sept. 19, 2016)

OPINION

(PC) Snowden v. Scott

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 CURTIS SNOWDEN, III, No. 2:22-cv-1444 DJC SCR P

12 Plaintiff, 13 v. ORDER 14 A. SCOTT, et al., 15 Defendants. 16 17 Plaintiff is a former state
prisoner proceeding pro se and in forma pauperis with a civil 18 rights action pursuant to 42
U.S.C. § 1983. Plaintiff proceeds with claims under the Eighth 19 Amendment against defendants
Scott, Jones, and Yang. (See ECF No. 5.) A motion to compel 20 discovery responses filed by
certain defendants is before the court. The court will grant that 21 motion.

22 DEFENDANTS' MOTION TO COMPEL

23 On January 10, 2025, defendants Scott and Jones filed a motion to compel plaintiff's 24
responses to defendant Jones's interrogatories, and defendant Scott's requests for production. 25
(ECF No. 46.) Defendants Scott and Jones claim plaintiff failed to provide any responses to their
26 discovery requests, even after they attempted to meet and confer with plaintiff by letter. (Id.; 27
Declaration of J. Nygaard ("Nygaard Decl.") ¶¶ 2-5, ECF No. 46-1 at 1-2.) Defendants Scott and
28 /// 1 Jones also ask the court to award them \$285 for expenses incurred in preparing the motion
to 2 compel. (ECF No. 46; Nygaard Decl., ¶ 5, ECF No. 46-1 at 2.) 3 Plaintiff did not timely
oppose defendants' motion. On February 11, 2025, the 4 undersigned issued an order to show
cause directing plaintiff to file, within 21 days, a response to 5 defendants' motion to compel and a
statement explaining why he was unable to submit a timely 6 response. (ECF No. 48.) The court
advised plaintiff that it will deem a failure to respond to 7 defendants' motion or to show good
cause for his failure to file the response on time "a waiver of 8 any opposition to defendants'
motion." (Id. at 1.) 9 Plaintiff has not filed a response to defendants' motion to compel or to this
court's order 10 to show cause. Accordingly, pursuant to Local Rule 230(l), the court deems
plaintiff's failure a 11 waiver of opposition and grants defendants' motion to compel. Plaintiff
shall respond to 12 Defendant Jones's interrogatories and Defendant Scott's request for production
of documents 13 within fifteen (15) days from the date of this order. In the event plaintiff does not
timely comply, 14 defendants may move for sanctions, including terminating sanctions. 15
Plaintiff is further ordered to pay Defendants \$285 as the expenses reasonably incurred by 16
Defendants in preparing their motion to compel. See Warren v. Guelker, 29 F.3d 1386, 1390 (9th

17 Cir. 1994) (a court cannot decline to impose sanctions simply because a plaintiff is proceeding
18 pro se). However, the Court will stay enforcement of the fee assessment given that Plaintiff is
19 proceeding in forma pauperis, pending a representation of Plaintiff's ability to pay. See Thomas
20 v. Gerber Prod., 703 F.2d 353, 357 (9th Cir. 1983) (holding that it is an abuse of discretion to
21 order a sanction that cannot be performed); Shabazz v. Giurbino, No. 1:11-cv-1558 DAD SAB
22 PC, 2016 WL 4992684, at *3 (E.D. Cal. Sept. 19, 2016) (staying enforcement of \$340
23 sanction against plaintiff proceeding in forma pauperis).

24 CONCLUSION

25 Accordingly, IT IS HEREBY ORDERED: 26 1. Defendants Scott's and Jones' motion to
compel (ECF No. 46) is granted. 27 2. Plaintiff shall respond to Defendant Jones's interrogatories
and Defendant Scott's 28 request for production of documents within fifteen (15) days from the
date of this order. In the 1 | event plaintiff does not timely comply, defendants may move for
sanctions, including terminating 2 || sanctions. 3 3. Defendants Scott's and Jones' request for
attorneys' fees in the amount of \$285 is 4 | granted. 5 4. The order assessing reasonable attorneys'
fees in the amount of \$285 is stayed. At any 6 || time prior to the termination of this action,
defendants Scott and Jones may move to lift the stay 7 || and enforce the order of expenses upon a
showing that plaintiff can pay \$285. 8 | DATED: March 27, 2025. 9 10

"2 SEAN C. RIORDAN

13 UNITED STATES MAGISTRATE JUDGE

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