

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

OPINION

(PC) Snowden v. Scott

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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 discovery sanction against plaintiff proceeding in forma pauperis).

24 CONCLUSION

25 Accordingly, IT IS HEREBY ORDERED: 26 1. Defendants Scott's and Jones' motion to 27 compel (ECF No. 46) is granted. 28 2. Plaintiff shall respond to Defendant Jones's interrogatories 29 and Defendant Scott's 30 request for production of documents within fifteen (15) days from the 31 date of this order. In the 1 | event plaintiff does not timely comply, defendants may move for 32 sanctions, including terminating 2 || sanctions. 33 3. Defendants Scott's and Jones' request for 34 attorneys' fees in the amount of \$285 is 4 | granted. 5 4. The order assessing reasonable attorneys' 35 fees in the amount of \$285 is stayed. At any 6 || time prior to the termination of this action, 36 defendants Scott and Jones may move to lift the stay 7 || and enforce the order of expenses upon a 37 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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