

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Keen v. Cross

No. 2:24-cv-0299-JDP (P), slip op. (E.D. Cal. Aug. 4, 2025) · No. 2:24-cv-0299-JDP (P) · Decided August 4, 2025

SUMMARY

The Eastern District of California grants defendants’ motion to compel plaintiff Brandon Keen to resume his deposition in this § 1983 action. The court holds that plaintiff’s desire to review video evidence and obtain counsel did not justify refusing to answer deposition questions, and it warns that further noncooperation could result in terminating sanctions. The court also extends the discovery and dispositive-motion deadlines for the limited purpose of completing the deposition, while denying plaintiff’s motion to compel production of the video as procedurally improper and untimely.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 4, 2025
DOCKET	2:24-cv-0299-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	In this § 1983 prisoner civil-rights action, defendants moved to compel plaintiff to resume his deposition and to modify the discovery and scheduling deadlines. Plaintiff separately moved to compel production of a video. The magistrate judge granted defendants' motion and denied plaintiff's motion.
STANDARD OF REVIEW	The court applied the Federal Rules of Civil Procedure governing depositions and motions to compel, including whether the moving party demonstrated actual and substantial prejudice from denial of discovery and whether good cause supported modifying the scheduling order.
PRECEDENTIAL VALUE	unpublished

TOPICS

discovery dispute

civil procedure

prisoners rights

section 1983

sanctions

PRACTICE AREAS

civil procedure

prisoner civil rights

federal discovery

QUESTIONS PRESENTED

1. Whether defendants were entitled to an order compelling plaintiff to resume and participate in his deposition.
2. Whether plaintiff could refuse to answer deposition questions because he had not viewed a video of the incident or lacked appointed counsel.
3. Whether good cause supported extending the discovery and dispositive-motion deadlines for the limited purpose of completing plaintiff's deposition.
4. Whether plaintiff's motion to compel production of the video was proper when he had not shown that he first served a discovery request and filed the motion after the applicable deadlines.

HOLDINGS

1. A deponent may not refuse to answer deposition questions on those grounds. Plaintiff was required to appear and participate in the properly noticed deposition without appointed counsel.
2. Defendants were entitled to an order compelling plaintiff to resume and complete his deposition.
3. The scheduling order was modified to extend the discovery deadline for 90 days from the date of the order for the limited purpose of taking plaintiff's deposition, with the dispositive-motion deadline extended to 90 days after the new discovery deadline.
4. Plaintiff's motion to compel was properly denied because he did not show that defendants had failed to respond to a discovery request and because he filed the motion after the applicable discovery deadlines.

KEY QUOTATIONS

“An objection at the time of the examination—whether to evidence, to a party’s conduct, to the officer’s qualifications, to the manner of taking the deposition, or to any other aspect of the deposition—must be noted on the record, but the examination still proceeds.” (slip op. at 3)

“Plaintiff is informed that he is required to appear at a properly noticed deposition and respond to questions by defendants’ counsel.” (slip op. at 5)

FACTUAL BACKGROUND

Plaintiff, a pro se state inmate, alleged that defendants violated his Eighth Amendment rights after becoming aware that he had set a fire in his cell but failed to assist him. During a properly noticed deposition, plaintiff stopped answering questions, stating that he needed counsel or court assistance, had not viewed a video of the incident, and could not recall certain matters because of his medications. Defendants ended the deposition, requested that plaintiff agree to resume it, and received no response. Plaintiff later sought production of the

video, but he did not establish that he had previously requested it from defendants and filed his motion after the discovery deadlines had expired.

PROCEDURAL HISTORY

Plaintiff, a state inmate proceeding pro se, filed an Eighth Amendment § 1983 action against Cross and Wallace. After plaintiff stopped answering questions during a properly noticed deposition, defendants moved to compel his continued deposition and to extend the discovery and dispositive-motion deadlines. Plaintiff moved to compel production of video evidence, but the motion was filed after the relevant discovery deadlines and without showing that he had first served a proper discovery request.

DISPOSITION

other

CASES CITED

- Veterans for Common Sense v. Shinseki, 644 F.3d 845, 888 (9th Cir. 2011)
- Hallen v. Morgan, 296 F.3d 732, 751 (9th Cir. 2002)
- Madrid v. De La Cruz, No. 1:18-cv-00947-DAD-EPG, 2019 WL 2994301, at *3 (E.D. Cal. July 9, 2019)
- Tene v. City and County of San Francisco, No. C 00-03868 WHA, 2004 WL 1465726 (N.D. Cal. May 12, 2004)
- Green v. CDCR, No. 2:14-cv-2854-TLN-AC, 2018 WL 4963122, at *2 (E.D. Cal. Oct. 15, 2018)
- Pulliam v. Lozano, No. 1:07-cv-964-LJO-MJS, 2011 WL 335866, at *3 (E.D. Cal. Jan. 31, 2011)
- Nicholson v. Rushen, 767 F.2d 1426, 1427 (9th Cir. 1985) (per curiam)
- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997)