

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ernest Thomas v. Jane Doe

Thomas v. Doe · No. 1:24-cv-01319-HBK (PC) · Decided May 20, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Ernest Thomas’s renewed motion to compel production of surveillance and body-camera footage as premature. The court explained that discovery generally does not begin until the complaint has been screened, defendants have been served and appeared, and a scheduling order is entered; it suggested that Thomas request preservation of the footage directly from CDCR.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 20, 2025
DOCKET	1:24-cv-01319-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a renewed motion to compel production of surveillance video and body-camera footage before the operative complaint had been screened, eligible defendants had been served, or defendants had answered.
PRECEDENTIAL VALUE	unpublished

TOPICS

- discovery dispute
- civil procedure
- prisoners rights
- civil rights

PRACTICE AREAS

- Civil procedure
- Prisoner civil rights

QUESTIONS PRESENTED

1. Whether the Court should compel production of CDCR surveillance and body-camera footage before any defendant had been served or appeared.
2. Whether Plaintiff could rely on CDCR regulations rather than the Federal Rules of Civil Procedure to obtain the requested material.

HOLDINGS

1. A motion to compel discovery is premature when no defendant has been served or appeared and the Court has not issued a discovery and scheduling order; discovery ordinarily begins only after screening, service, and an answer.
2. Discovery in this federal action is governed by the Federal Rules of Civil Procedure rather than CDCR regulations.

KEY QUOTATIONS

“Because no party has yet been served, let alone been made subject to a discovery and scheduling order, Plaintiff’s renewed motion to compel discovery is premature.” (at 2)

“Although Plaintiff relies on CDCR regulations, cases in federal courts are governed by the Federal Rules of Civil Procedure.” (at 1)

FACTUAL BACKGROUND

Plaintiff sought surveillance video and body-camera footage from October 27 through October 30, 2023, asserting that the material was necessary to refute grievance statements and support allegations in his first amended complaint. The requested footage was apparently in the possession or control of CDCR and would be discoverable from a party if the action proceeded. At the time of the motion, the complaint had not completed screening for service and no defendant had been served.

PROCEDURAL HISTORY

Plaintiff brought a prisoner civil-rights action against Jane Doe and other unknown defendants. After the Court’s screening orders, no defendant had been served and no discovery or scheduling order had issued. Plaintiff previously moved to compel the same video footage and then filed this renewed motion, which the Court denied as premature.

DISPOSITION

other

CASES CITED

- Jules Jordan Video, Inc. v. 144942 Canada Inc., 617 F.3d 1146, 1158 (9th Cir. 2010)
- Hernandez v. Williams, 2019 WL 5960089 (S.D. Cal. April 27, 2022)
- Somoza v. Dir. of California Dep’t of Corr. & Rehab., 2022 WL 2359679, at *1 (E.D. Cal. June 30, 2022)

OPINION

(PC)Thomas v. Doe

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 ERNEST THOMAS, Case No. 1:24-cv-01319-HBK (PC) 12 Plaintiff, ORDER DENYING
PLAINTIFF’S

MOTION TO COMPEL AS PREMATURE

13 v. (Doc. No. 16)

14 JANE DOE,

15 Defendant. 16

17 Pending before the Court is Plaintiff’s renewed Motion to Compel.1 (Doc. No. 16). 18 Citing
CDCR regulations, Plaintiff requests the Court to order the unknown and unserved 19 Defendants
to provide him access to certain surveillance video and body camera footage from

20 October 27, 2023 through October 30, 2023. (Id. at 4). Plaintiff claims this video evidence is

21 necessary to refute statements made in response to his grievance and prove the veracity of
factual 22 allegations he made in is First amended Complaint. (Id.). 23 The Federal Rules of Civil
Procedure distinguish between parties and non-parties in 24 25 1 This is Plaintiff’s second motion
to compel Defendants to produce the same material: Building Two “A” Yard video footage from
October 27, 2023 through October 30, 2023. (Compare Doc. No. 10, with Doc.

26 No. 16). Relatedly, the Court previously took issue with Plaintiff’s contradictory timeline
regarding Jane

Doe in the Court’s first screening order. (See Doc. No. 5 at 6). However, the Court subsequently
noted in 27 its Second Screening Order that the date of the blood draw (and whether it occurred on
October 27 or October 30) was immaterial to its determination that the FAC failed to state a viable
claim. (Doc. No. 12 at 28 4 n.3, 6-7). 1 | establishing available discovery devices and remedies.
Jules Jordan Video, Inc. v. 144942 2 | Canada Inc., 617 F.3d 1146, 1158 (9th Cir. 2010). Although
Plaintiff relies on CDCR 3 | regulations, cases in federal courts are governed by the Federal Rules
of Civil Procedure. 4 | Generally, when a party fails to comply with a proper discovery request, the
non-offending party 5 || moves under Rule 37 to compel compliance. Fed. R. Civ. P. 37 (a)(1).
Alternatively, Rule 45 6 | subpoenas are used to obtain documents or testimony from non-parties.
Fed. R. Civ. P. 45. 7 | Because Plaintiff seeks an order compelling disclosure of CDCR video
footage, which would be 8 | in the possession or under the control of a party if this case were to
proceed, the Court construes 9 | the pleading as a motion to compel discovery. 10 To the extent
Plaintiff seeks to identify a “genuine issue[] of material fact” for “the jury,” 11 | he is several steps
ahead of where the case currently stands procedurally. (Doc. No. 16 at 3). In 12 | the interest of
judicial economy, the Court typically does not begin the discovery process until the 13 || operative

complaint has been screened, any eligible defendants have been served, and those 14 | defendants have answered the complaint. See *Hernandez v. Williams*, 2019 WL 5960089 (S.D. 15 | Cal. April 27, 2022); see also *Somoza v. Dir. of California Dep't of Corr. & Rehab.*, 2022 WL 16 | 2359679, at *1 (E.D. Cal. June 30, 2022) (“Discovery will commence only after defendants have 17 | appeared in this action Plaintiff's first amended complaint must be screened and found to 18 | state cognizable claims prior to service on any defendant.” (citing 28 U.S.C. § 1915A)). Because 19 | no party has yet been served, let alone been made subject to a discovery and scheduling order, 20 | Plaintiff's renewed motion to compel discovery is premature. Accordingly, Plaintiff's Motion to 21 | Compel is denied. To the extent Plaintiff wishes CDCR to preserve the video footage, he should 22 | make such a request directly to CDCR, as appropriate. 23 According, it is ORDERED: 24 Plaintiff's renewed motion to compel (Doc. No. 16) is DENIED as premature. °° | Dated: _ May 19, 2025 Mihaw. Wh. foareh fackte

6 HELENA M. BARCH-KUCHTA

4 UNITED STATES MAGISTRATE JUDGE

28