NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GREGORY ALLEN FRANKLIN, Plaintiff - Appellant, v. R. MADDEN, Captain; et al., Defendants - Appellees.	No. 13-55568 D.C. No. 3:09-cv-01067-MMA-RBB MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Michael M. Anello, District Judge, Presiding

Submitted November 18, 2014**

Before: LEAVY, FISHER, and N.R. SMITH, Circuit Judges.

Gregory Allen Franklin, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging First and Eighth Amendment violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion decisions concerning discovery, *Preminger v.*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Peake, 552 F.3d 757, 768 n.10 (9th Cir. 2008), and we affirm.

The district court did not abuse its discretion by denying a portion of Franklin's first motion to compel because Franklin failed to show any basis for the discovery. *See* Fed. R. Civ. P. 26(b)(1) (discovery requests must be "reasonably calculated to lead to the discovery of admissible evidence").

The district court did not abuse its discretion by denying Franklin's second motion to compel and rejecting Franklin's third motion to compel because Franklin failed to comply with local rules. *See Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007) (setting forth standard of review and noting the "[b]road deference . . . given to a district court's interpretation of its local rules").

The district court did not abuse its discretion by denying Franklin's motion for an extension of time to file a supplemental opposition to summary judgment because the district court had already granted Franklin four extensions of time. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258-59 (9th Cir. 2010) (setting forth standard of review and discussing requirements for an extension of time under Fed. R. Civ. P. 6(b)); *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1088 (9th Cir. 2002) (noting the district court's "broad authority to impose reasonable time limits" (citation and internal quotation marks omitted)).

The district court did not abuse its discretion by granting summary judgment

while discovery may have been outstanding because Franklin failed to show what material facts would have been discovered that would have precluded summary judgment. *See Klingele v. Eikenberry*, 849 F.2d 409, 412-13 (9th Cir. 1988) (setting forth standard of review and recognizing that "[t]he burden is on the nonmoving party . . . to show what material facts would be discovered that would preclude summary judgment").

We do not consider the merits of the district court's summary judgment because Franklin does not challenge summary judgment on the merits in his opening brief.

Appellees' motion to strike Exhibits A-B, D-H, and J-K to Franklin's opening brief, set forth in Appellees' answering brief, is granted.

Franklin's unopposed motion to file a late reply brief, filed on June 4, 2014, is granted, and the Clerk shall file the reply brief submitted on February 5, 2014.

All other pending motions are denied.

AFFIRMED.