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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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9 Jeremy Joseph Kent,

) No. CV-09-1616-PHX-JWS (LOA)

10 Plaintiff,

) **ORDER**

11 vs.

12 D.C. Cummings, et al.,

13 Defendants.

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15 This matter arises on Plaintiff’s Motion for Reconsideration for the Appointment  
16 of Counsel. (Doc. 80)

17 Plaintiff requests reconsideration of the June 24, 2010 order denying his motion  
18 for appointment of counsel. (Doc. 70) Plaintiff requests the appointment of counsel, in part,  
19 to facilitate Plaintiff’s viewing of materials which Defendants produced in response to  
20 Plaintiff’s discovery requests that are in electronic format - DVDs and discs - that were seized  
21 by the Arizona Department of Corrections (“ADOC”) as contraband. Specifically, Plaintiff  
22 contends that on May 24, 2010, he received from Defendants’ responses to his discovery  
23 requests which included “(6) Six CDR Memorex discs and (8) Eight DVDR TDK Discs  
24 containing Plaintiff’s discovery requests. . . .” (Doc. 80) Plaintiff has submitted evidence  
25 supporting his claim that these materials were seized as contraband by ADOC and “turned over  
26 to COII Perry.” (Doc. 80; attachment Inmate Property/Contraband/Disposition Tracking dated  
27 May 24, 2010) (identifying “6 CDR Memorex” and “8 DVDR TDK” as “unauthorized legal  
28 prop.”)

1 Plaintiff has filed several grievances with ADOC attempting to access the DVDs  
2 and discs. (Doc. 80, attachments) CO II Perry has advised Plaintiff that the DVDs will be kept  
3 in long term legal storage and Plaintiff can make arrangements with COII Mendoza to view the  
4 DVDs. (Doc. 80; attachment, July 2, 2010 Inmate Letter Response) Plaintiff has  
5 unsuccessfully attempted to make arrangements with CO II Mendoza to view the DVDs and  
6 discs. (Doc. 80, attachment, July 4, 2010 Inmate Letter) Plaintiff then filed the pending motion  
7 seeking assistance to view the discovery materials.

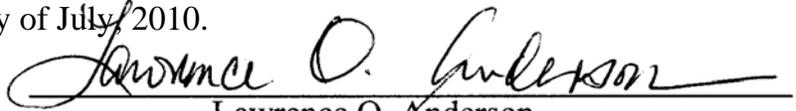
8 Plaintiff cannot adequately pursue his federal case and prepare for his deposition  
9 without timely viewing the discovery produced by Defendants. As such, Plaintiff is entitled to  
10 view the CDs and DVDs produced to him on May 24, 2010. The Court will direct Defendants  
11 to make arrangements with ADOC to permit Plaintiff to view the CDs and DVDs identified in  
12 the pending motion. Defendants shall promptly make such arrangements for Plaintiff to view  
13 the CDs and DVDs, and shall file a written notice regarding those arrangements, including the  
14 date upon which Plaintiff will be permitted to view the materials. Additionally, if appropriate,  
15 Defendants shall provide Plaintiff with hard copies of the information contained on the CDs and  
16 DVDs produced on May 24, 2010.

17 After consideration of this matter,

18 **IT IS ORDERED** that Plaintiff's Motion for Reconsideration (Doc. 80) is  
19 **DENIED.**

20 **IT IS FURTHER ORDERED** that Defendants shall **promptly** make  
21 arrangements for Plaintiff to timely view the "6 CDR Memorex" CDs and "8 DVDR TDK"  
22 DVDs produced to Plaintiff on May 24, 2010 and that Defendants shall file a written notice  
23 regarding those arrangements, including the date upon which Plaintiff will be permitted to view  
24 the materials. If appropriate, Defendants shall also timely produce to Plaintiff hard copies of the  
25 information contained on the 6 CDs and 8 DVDs produced on May 24, 2010.

26 Dated this 27<sup>th</sup> day of July 2010.

27   
28 Lawrence O. Anderson  
United States Magistrate Judge