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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Derrick Lee Billups,)
) CV-06-1014-DCB P
Plaintiff,)
)
vs.)
) **ORDER**
Sergeant Lomeli, et al.,)
)
Defendants.)
)

After a review of the pending motions for summary judgment, the Court cannot locate what it deems to be potentially an important piece of evidence, if it exists: any written statement or report authored by, or under the direction of, Officer Lomeli before, during or after the safety counseling session on June 12, 2005 with Plaintiff and his cellmate, Mr. Brownlee, memorializing and/or reflecting what was discussed in the session concerning Plaintiff's safety and what conclusions were reached, if any.

To that end,

IT IS ORDERED that Defendant should file with the Court a supplemental brief that attaches any and all formal or informal written statements and/or internal reports authored by Office Lomeli, or any agent under his control, which reflect the communications by all parties to the June 12, 2005 safety counseling meetings involving Plaintiff, his cellmate, and Officer Lomeli, and any results or recommendations stemming


1 from that counseling session. In addition, any formal or informal rules
2 and regulations that address: (1) this type of safety concerns counseling
3 session/inmate contact concerning safety issues and (2) procedures for
4 formally or informally reporting or documenting safety counseling
5 sessions/contact with inmates, should also be produced as part of the
6 supplemental brief.

7 IT IS FURTHER ORDERED that Defendant should produce in a
8 supplemental brief any documents explaining or detailing the basis for
9 the May 25, 2005 Memorandum from Warden Ornoski to Plaintiff identifying
10 Plaintiff as involved in an "enemy situation" with several Black inmates
11 and documenting whether or not this incident is related in any way to the
12 safety concerns expressed by Plaintiff on June 12, 2005.

13 IT IS FURTHER ORDERED that Defendant should file with the Court a
14 supplemental brief, thoroughly addressing and documenting the above
15 issues, on or before **July 23, 2010**.

16 DATED this 8th day of July, 2010.

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David C. Bury
United States District Judge