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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL KONS,

CASE NO. 1:07-cv-00918-SKO PC

Plaintiff,

ORDER VACATING WRIT OF HABEAS
CORPUS AD TESTIFICANDUM

v.

S. LONGORIA, et al.,

Defendants.

_____ /
This matter is scheduled for jury trial on March 8, 2011. On March 3, 2011, the Court received a notice from the warden at the California State Prison in Sacramento (“CSP-Sacramento”) that an inmate witness in this case, Parnell Curtis, does not wish to testify on the behalf of Plaintiff Michael Kons (“Plaintiff”) and does not wish to be transported to appear at trial. Plaintiff had previously indicated that Parnell Curtis was willing to voluntarily testify on Plaintiff’s behalf. A letter signed by Parnell Curtis is attached to the notice. The letter indicates that Plaintiff does not wish to testify during the trial for this matter.

During a telephonic motions in limine hearing on March 3, 2011, Plaintiff stated that he did not wish to call Parnell Curtis as a witness and did not want the Court to issue a subpoena to command Mr. Curtis’ presence at the trial. Accordingly, the Court will relieve CSP-Sacramento from any obligation to produce Parnell Curtis for trial.

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1 Based on the foregoing, it is HEREBY ORDERED that:

- 2 1. The January 31, 2011, order and writ of habeas corpus ad testificandum commanding
3 the warden at CSP-Sacramento to transport and produce inmate Parnell Curtis for
4 trial on March 8, 2011, is VACATED; and
- 5 2. The Clerk is directed to serve a copy of this order on the litigation coordinator at
6 CSP-Sacramento.

7
8 IT IS SO ORDERED.

9 Dated: March 3, 2011

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE