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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAVELLE TYRONE PLAYER,

Plaintiff,

v.

B. JOHNSON,

Defendant.

CASE NO. 1:07-CV-01312-LJO-DLB PC

ORDER GRANTING DEFENDANT’S
MOTION TO CONTINUE TRIAL DATE

(DOC. 67)

Telephonic Trial Confirmation

Hearing: February 29, 2012 at 8:30 a.m.
in Courtroom 4 (LJO)

Jury Trial: April 10, 2012, at 8:30 a.m. in
Courtroom 4 (LJO)

Plaintiff Lavelle Tyrone Player (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s second amended complaint against Defendant B. Johnson (“Defendant”) on the claim of excessive force in violation of the Eighth Amendment. This matter is currently set for jury trial beginning on February 13, 2012. Pending before the Court is Defendant’s motion to continue the trial date, filed September 9, 2011. Doc. 67.

Defendant’s counsel submits a declaration attesting that she is unable to prepare for this trial effectively by February 13, 2012. Michelle Angus Decl., Doc. 67. Defendant’s counsel is counsel in the matter of *McCoy v. Spidle*, case No. CV-07-198, which is set for a two-week trial to commence on January 31, 2012 in Sacramento. *Id.* ¶ 3. Defendant’s counsel declares that she anticipates calling 54 witnesses in order to present the defense for two different prisons. *Id.* Additionally, the Honorable Stephen M. McNamee from the District Court of Arizona will be presiding over this action, and has made special arrangements to appear in Sacramento. *Id.*

Modification of the Court’s scheduling order requires a showing of good cause. Fed. R. Civ. P. 16(b)(4). The Court finds good cause has been presented, and issues the following.

1 Accordingly, it is HEREBY ORDERED that:

- 2 1. This matter is set for telephonic trial confirmation hearing before the Honorable
3 Lawrence J. O'Neill on **February 29, 2012 at 8:30 a.m.** in Courtroom 4;
- 4 2. This matter is set for jury trial before the Honorable Lawrence J. O'Neill on **April**
5 **10, 2012, at 8:30 a.m.** in Courtroom 4;
- 6 3. Counsel for Defendant is required to arrange for the participation of Plaintiff in
7 the telephonic hearing and to initiate the hearing at **(559) 499-5680**;
- 8 4. Plaintiff shall serve and file a pretrial statement as described in the Court's
9 September 6, 2011 Order on or before **February 8, 2012**;
- 10 5. Defendant shall serve and file a pretrial statement as described in the Court's
11 September 6, 2011 Order on or before **February 22, 2012**;
- 12 6. In addition to electronically filing their pretrial statement, Defendant shall e-mail
13 the pretrial statement to: ljoorders@caed.uscourts.gov;
- 14 7. If Plaintiff intends to call incarcerated witnesses at time of trial, Plaintiff shall
15 serve and file a motion for attendance of incarcerated witnesses as described in the
16 Court's September 6, 2011 Order on or before **February 8, 2012**;
- 17 8. The opposition to the motion for the attendance of incarcerated witnesses, if any,
18 shall be filed on or before **February 22, 2012**;
- 19 9. If Plaintiff wishes to obtain the attendance of unincarcerated witnesses who refuse
20 to testify voluntarily, Plaintiff must submit the money orders, as described in the
21 Court's September 6, 2011 Order, to the Court on or before **February 29, 2012**;
22 and
- 23 10. Any other dates listed are disregarded and superseded by this order.

24 IT IS SO ORDERED.

25 **Dated: October 25, 2011**

26 /s/ Dennis L. Beck
27 UNITED STATES MAGISTRATE JUDGE
28