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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GARRISON S. JOHNSON,

Plaintiff,

v.

JOHN DOVEY, et al.,

Defendants.

CASE NO. 1:08-CV-00640-LJO-DLB PC

ORDER DIRECTING SERVICE OF
SUBPOENA DUCES TECUM BY UNITED
STATES MARSHAL WITHOUT
PREPAYMENT OF COST

(DOC. 115)

Plaintiff Garrison S. Johnson (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Dunnahoe, V. Ybarra, Cunningham, Medrano, Holguin, Valasquez, G. Ybarra, Curliss, J. Gonzales, and K. Powell. On February 15, 2011, the Court issued an order granting Plaintiff’s motions for the issuance of a subpoena duces tecum in part and providing notice to the parties that the Court intended after twenty days to issue the subpoenas and direct the United States Marshal to effect personal service. Fed. R. Civ. P. 45; 28 U.S.C. § 1915(d).

Accordingly, it is HEREBY ORDERED that:

- 1. The Clerk of Court shall forward the following documents to the United States Marshals Service:

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1 A. One (1) completed and issued subpoena duces tecum to be served on:

2 **Michael Stainer, Associate Warden**
3 **California Correctional Institution**
4 **24900 Highway 202**
5 **Tehachapi, CA 93561**

6 The Warden of California Correctional Institution (“CCI”) is directed to produce the
7 following within thirty (30) days from the date of service of the subpoena:

- 8 (1) Production of all logs, documents, and electronically stored information in
9 the Warden’s possession and control relating to the dates and time Plaintiff
10 was provided showers from March 17, 2007 through March 30, 2007.
- 11 (2) Production of all CDCR policies, rules, regulations, documents, and
12 electronically stored information in the Warden’s possession and control
13 that requires documenting whether the inmate showered or refused to
14 shower.
- 15 (3) Any and all logs, documents, and electronically stored information in your
16 possession and control that relates to all cell searches at CCI that reveal
17 the dates Plaintiff’s cell was searched when he was housed at Facility IVA
18 Housing Unit 4 from January 1, 2006 through March 17, 2007.
- 19 (4) Any and all logs, documents and electronically stored information in your
20 possession and control that reveals Defendant Dunnahoe was assigned in
21 CCI to search Plaintiff’s cell on March 11, 2007 at Facility IVA, Housing
22 Unit 4, Cell #111.
- 23 (5) Any and all logs, documents, and electronically stored information in your
24 possession and control that pertains to Facility IVA being placed on
25 emergency lockdown and/or modified program in CCI on March 17, 2007.
- 26 (6) Any and all logs, documents, and electronically stored information in your
27 possession and control that relate to two female correctional officers who
28 were assigned to Facility IVA Housing Unit 4 in CCI who filed complaints
between January 1, 2006 through February 28, 2007 requesting to be
reassigned to another position because the Facility IV second watch
correctional officers were harassing black inmates and/or causing
problems with black inmates.
- (7) Any and all logs, documents, and electronically stored information in your
possession and control that relate to the quantity of MK 9X pepper spray
Defendant B. Medrano's cannister contained on Plaintiff on March 17,
2007.
- (8) Any and all logs, documents, and electronically stored information in your
possession and control that relates to the amount of MK-9X pepper spray
Defendant B. Medrano utilized on Plaintiff on March 17, 2007.
- (9) Any and all logs, documents, and electronically stored information in your
possession and control that relates to the chemicals and ingredients that
were in Defendant Medrano's MK 9X OC pepper spray canister on March
17, 2007.

1 (10) Any and all logs, documents, and electronically stored information in your
2 possession and control that relates to the quantity of MK 9X OC fogger
3 pepper spray that Defendant Velasquez's canister contained on Plaintiff on
4 March 17, 2007.

5 (11) Any and all logs, documents, and electronically stored information in your
6 possession and control that relates to the amount of MK 9X OC fogger
7 pepper spray that Defendant Velasquez utilized on Plaintiff on March 17,
8 2007.

9 (12) Provide Plaintiff with a copy of the video tape from the video camera in
10 Facility IVA Housing Unit-4 that recorded the March 17, 2007 incident
11 involving Plaintiff and Defendants.

12 B. One (1) completed and issued subpoena duces tecum to be served on:

13 **Matthew Cate, Secretary of CDCR**
14 **1515 S Street**
15 **Sacramento, CA 95814**

16 The Secretary of the CDCR or his designee is to produce the following within (30) days
17 from the date of service of the subpoena:

18 (1) A certified copy of the CDCR training video that is used to show officers
19 the effect pepper spray has on a person when someone is pepper sprayed in
20 the eyes.

21 (2) A certified written transcription of the CDCR training video that is used to
22 show officers the effect pepper spray has on a person when someone is
23 pepper sprayed in the eyes.

24 (3) A certified copy of the CCI February 2, 2007 video tape of the I.S.T.
25 briefing to CCI prison officials concerning a discussion of Plaintiff being
26 the inmate who filed the lawsuit that mandates CDCR to racially integrate
27 the way it houses inmates.

28 (4) A certified written transcription of the CCI February 2, 2007 I.S.T.
briefing to CCI prison officials concerning a discussion of Plaintiff being
the inmate who filed the lawsuit that mandates CDCR to racially integrate
the way it houses inmates.

(5) A certified copy of any and all complaints filed with the Office of Internal
Affairs for the period of 2002-2007 by inmates or on behalf of inmates
who were confined at CCI involving Defendants J. Dunnahoe, V. Ybarra,
G. Ybarra, S. Cunningham, J. Gonzales, B. Medrano, A. Holguin, and J.
Velasquez accusing them of the use of excessive force and/or beating and
pepper spraying inmates.

(6) A certified copy of any and all complaints filed with the California Office
of the Inspector General for the period of 2002-2007 by inmates or on
behalf of inmates who were confined at CCI involving Defendants J.
Dunnahoe, V. Ybarra, G. Ybarra, S. Cunningham, J. Gonzales, B.
Medrano, A. Holguin, and J. Velasquez accusing them of subjecting

1 inmates to the use of excessive force and/or beating and pepper spraying
2 inmates.

3 (7) A certified copy of any and all documents and electronically stored
4 information of investigative and findings reports by the California
5 Inspector General's Office relating to complaints filed by inmates in CCI
6 involving Defendants J. Dunnahoe, V. Ybarra, G. Ybarra, S. Cunningham,
7 J. Gonzales, B. Medrano, A. Holguin, and J. Velasquez accusing them of
8 subjecting inmates to the use of excessive force and/or beating and pepper
9 spraying them as well as being placed in administrative segregation on
10 false charges of battery on a peace officer for the period of 2002-2007.

11 C. Two (2) completed USM-285 forms; and

12 D. Three (3) copies of this order, one to accompany each subpoena, and one
13 for the United States Marshals Service.

14 2. Within **twenty (20) days** from the date of this order, the Marshals Service is
15 directed to serve the subpoena in accordance with the provisions of Rule 45 of the
16 Federal Rules of Civil Procedure.

17 3. The Marshals Service is directed to retain a copy of the subpoena in its file for
18 future use.

19 4. The Marshals Service SHALL effect personal service of the subpoena duces
20 tecum, along with a copy of this order, upon the entity in the subpoena pursuant to
21 Rule 45 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c).

22 5. Within **ten (10) days** after personal service is effected, the Marshals Service shall
23 file the return of service, along with the costs subsequently incurred in effecting
24 service. Said Costs shall be enumerated on the USM-285 form.

25 IT IS SO ORDERED.

26 **Dated: March 9, 2011**

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