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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 REGARDING OBJECTION TO  
SUBPOENA DUCES TECUM AND  
PRODUCTION OF DOCUMENTS**

ECF No. 176

**CDCR RESPONSE DUE WITHIN TWENTY-  
ONE DAYS**

Plaintiff Garrison S. Johnson (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Dunnahe, V. Ybarra, Cunningham, Medrano, Holguin, Valasquez, G.Ybarra, Curliss, J. Gonzales, and K. Powell on claims of excessive force, inhumane conditions of confinement, retaliation, and state law claims.

On January 6, 2012, Plaintiff filed a motion for sanctions against non-party CDCR regarding subpoenas duces tecum. On April 24, 2012, the Court ordered non-party CDCR to provide further response regarding Request B3 from the subpoena, a certified copy of the California Correctional Institution (“CCI”) February 2, 2007 video tape of the IST briefing concerning a discussion of Plaintiff being the inmate who filed the lawsuit regarding racial integration. Request B4 concerns a transcript of this hearing. CDCR responded that there was no video, and thus no transcript, but there were minutes related to this briefing, which CDCR claims to have provided. Plaintiff maintains that he never received the minutes for this briefing.

On May 4, 2012, in response to the Court’s April 24, 2012 Order, CDCR responded by

1 stating that it had fully complied with the subpoena. ECF No. 172. CDCR now contends that there  
2 is nothing to produce because the discovery request was for video, of which no video exists. CDCR  
3 refuses to produce the minutes, because the request was only for video of the briefing or the  
4 transcript of the video.

5 On June 14, 2012, the Court issued an order granting Plaintiff leave to request a subpoena  
6 duces tecum be served upon the warden of CCI requesting the production of minutes from a  
7 February 2, 2007 I.S.T. briefing, during which Plaintiff was allegedly discussed. ECF No. 174. On  
8 June 25, 2012, CDCR filed objections. ECF No. 176. CDCR now contends that it has already  
9 produced the minutes from the February 2, 2007 IST briefing at CCI discussing Plaintiff and his  
10 prior lawsuit. CDCR thus contends that issuance of a subpoena duces tecum for an already produced  
11 document would be a waste of resources. CDCR states that it is willing to make the document in  
12 question available to Plaintiff at his place of incarceration.

13 Plaintiff maintained that he had not received the minutes from the February 2, 2007 briefing.  
14 If CDCR has made the document in question available to Plaintiff, then there will be no need for the  
15 issuance of a subpoena duces tecum. To avoid further litigation of this discovery matter, the Court  
16 will require CDCR to file with the Court a declaration through counsel that the document in question  
17 has been produced for Plaintiff's inspection. If such declaration is not produced in a timely manner,  
18 the Court will issue the subpoena duces tecum.

19 Accordingly, it is HEREBY ORDERED that CDCR is to file a declaration that the document  
20 in question, minutes from the February 2, 2007 IST briefing at CCI, has been produced for  
21 Plaintiff's inspection. CDCR is required to file this declaration within **twenty-one (21) days** from  
22 the date of service of this order.

23 IT IS SO ORDERED.  
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25 Dated: August 21, 2012

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