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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

IVAN RAY CARTER, JR.,

CASE NO. 1:08-cv-01841-SKO PC

Plaintiff,

ORDER VACATING ORDER AND WRIT OF
HABEAS CORPUS AD TESTIFICANDUM TO
TRANSPORT CLYDE RAINEY, CDCR # P-
50923, FOR TRIAL ON APRIL 17, 2012

v.

FERNANDEZ, REYNAGA, CARRILLO,
CEASEAR, AND JONES,

(Docs. 132 and 160)

Defendants.

An order and writ of habeas corpus ad testificandum directing the production of inmate witness Clyde Rainey for trial was filed on March 12, 2012. The Clerk of the Court was notified that Mr. Rainey was unwilling to be transported for an appearance at trial, and a telephonic status conference was held on April 11, 2012, at 1:30 p.m. to discuss the issue.

Given Mr. Rainey’s unwillingness to appear at trial, Plaintiff stated that he no longer wishes to call Mr. Rainey as a witness to testify in person or via video conference. Accordingly, the order and writ of habeas corpus ad testificandum directing the production of Mr. Rainey for trial will be vacated.

In addition, Plaintiff notified the Court that he was unable to make any copies of his exhibits and he mailed his original exhibits to the court. Defendants are in possession of a copy of the exhibits by virtue of Plaintiff’s pretrial statement, to which a copy of the exhibits was appended, and the Court will ensure that Plaintiff has a copy of his exhibits for use at trial.

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Based on the foregoing, it is HEREBY ORDERED that:

1. The order and writ of habeas corpus ad testificandum directing the production of inmate witness Clyde Rainey, CDCR # P-50923, for trial, filed on March 12, 2012, is VACATED; and
2. The Clerk of the Court shall serve a copy of this order by facsimile on the litigation office and the out-to-court department at CSP-Sacramento.

IT IS SO ORDERED.

Dated: April 11, 2012

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE