

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GREGORY DOWNS,

Plaintiff,

v.

CALIFORNIA BOARD OF PRISON TERMS,
et al.,

Defendants.

CASE NO. 1:09-cv-00714-SMS PC

ORDER DENYING MOTION TO OBTAIN
LEGAL PROPERTY

(Doc. 28)

Plaintiff Gregory Downs (“plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 17, 2010, Plaintiff filed a “Motion to obtain court order to obtain legal property.” (Doc. 28.)

Plaintiff requests a court order directing the California Department of Corrections and Rehabilitation to provide him with his ten (10) boxes of legal materials that were too voluminous to be transported to Centinela State Prison in the van with Plaintiff. Plaintiff states that he was transferred from Kern Valley State prison to Centinela State Prison on May 6, 2010. Plaintiff drafted and signed his motion a mere five days later -- May 11, 2010. The court recognizes that prison administrators “should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.” Whitley v. Albers, 475 U.S. 312, 321-322 (1986) (*quoting* Bell v. Wolfish, 441 U.S. 520, 547 (1970)). Thus, the Court shall defer to the prison’s policies and practices

1 in transferring and furnishing Plaintiff with his ten (10) boxes of legal materials.

2 Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for an order directing the
3 CDCR to forthwith furnish him with his boxes of legal materials is DENIED without prejudice to
4 allow him to bring this motion in the future after at least ninety (90) days have passed and upon a
5 showing of good cause.

6
7
8
9 IT IS SO ORDERED.

10 **Dated:** May 26, 2010

 /s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE