

1 transportation and security, and (4) whether the suit can be stayed until the inmate is released without
2 prejudice to the cause asserted. Wiggins v. County of Alameda, 717 F.2d 466, 468 n.1 (9th Cir.
3 1983); see also Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994) (district court did not abuse its
4 discretion when it concluded the inconvenience and expense of transporting inmate witness
5 outweighed any benefit he could provide where the importance of the witness's testimony could not be
6 determined), abrogated on other grounds by Sandin v. Conner, 515 U.S. 472 (1995).

7 **II. Discussion**

8 **Inmate Madrid**

9 Plaintiff declares under penalty of perjury that Inmate Madrid was an eye witness to two
10 correctional officers swinging their arms as if punching an inmate who was lying on the ground.
11 Inmate Madrid reportedly told Plaintiff that he would testify if Plaintiff pursued a lawsuit. (ECF No.
12 127, pp. 3-4.)

13 Inmate Madrid appears to be an eye witness to events at issue in this action. As such, Inmate
14 Madrid's presence will substantially further the resolution of the case. There is no indication that
15 there would be extraordinary security risks presented by Inmate Madrid's presence at trial.
16 Accordingly, Plaintiff's request for the attendance of Inmate Madrid at trial shall be granted.

17 **Inmate Mayhan**

18 In support of the motion, Plaintiff submits the declaration of Inmate Mayhan. Inmate Mayhan
19 declares under penalty of perjury that on June 9, 2008, he witnessed a correctional officer grab and
20 slam a handcuffed prisoner to the ground. Once the prisoner was on the ground, two correctional
21 officers attacked him with various punches. Given the distance, Inmate Mayhan did not recognize the
22 correctional officers or prisoner. Inmate Mayhan later found out the prisoner was Plaintiff Johnson
23 and one of the correctional officers was Gonzales. (ECF No. 127, pp. 6-7, Declaration of Hayward L.
24 Mayhan.) Inmate Mayhan reportedly told Plaintiff that he would testify if called upon to do so. (ECF
25 No. 127, p. 4.)

26 Inmate Mayhan appears to be an eye witness to the events at issue in this action, and his
27 presence at trial will substantially further the resolution of the case. There is no indication that there
28

1 would be any extraordinary security risks presented by Inmate Mayhan's presence at trial.
2 Accordingly, Plaintiff's request for the attendance of Inmate Mayhan at trial shall be granted.

3 **III. Conclusion and Order**

4 For the reasons stated, Plaintiff's motion for attendance of Inmates Madrid and Mayhan is
5 HEREBY GRANTED.

6
7 IT IS SO ORDERED.

8 Dated: March 4, 2015

9 /s/ Barbara A. McAuliffe
10 UNITED STATES MAGISTRATE JUDGE

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28