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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA  
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ASOFA V. TAFILELE, ) 1:10cv01493 LJO DLB PC  
Plaintiff, ) ORDER GRANTING DEFENDANTS'  
vs. ) REQUEST TO VACATE WRIT OF  
HERNANDEZ, et al., ) HABEAS CORPUS AD TESTIFICANDUM  
Defendants. ) FOR INMATE MARK HOWARD,  
 ) CDC # K-66087  
 ) (Document 111)  
 ) ORDER VACATING WRIT OF HABEAS  
 ) CORPUS AD TESTIFICANDUM FOR  
 ) INMATE MARK HOWARD, CDC #K-66087  
 ) (Document 87)

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18 Plaintiff Asofa V. Tafilele (“Plaintiff”) is a California state prisoner proceeding pro se  
19 and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is  
20 proceeding against (1) Defendants R. Mata, R. Hernandez, D. Williams, J. Spurgeon and M.  
21 Murphy for violation of the Eighth Amendment based on the use of excessive force; and (2)  
22 Defendant S. Meza for violation of the Eighth Amendment based on deliberate indifference to a  
23 serious medical need.

24 This matter is set for jury trial on March 4, 2014.  
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26 On January 8, 2014, the Court granted Plaintiff’s Motion for Attendance of Incarcerated  
27 Witnesses as to Inmate Mark Howard, CDC #K-66087, based on Plaintiff’s declaration

1 indicating that Howard witnessed Plaintiff's interaction with Defendant Meza. Therefore, on  
2 January 10, 2014, the Court issued an Order and Writ of Habeas Corpus Ad Testificandum to  
3 transport Inmate Howard to Court on March 4, 2014.

4 On February 28, 2014, Defendants filed a request to vacate the writ. Based on the  
5 Declaration of Susan E. Coleman, Robert Borg interviewed Howard in order to find out what his  
6 testimony would be at trial. Mr. Borg told Ms. Coleman that Howard did not want to come to  
7 Court and would not be able to support what Plaintiff said in his Motion for Attendance of  
8 Incarcerated Witnesses. Coleman Decl. ¶4.

9 Ms. Coleman attaches a statement from Inmate Howard in which he states that he told  
10 Mr. Borg that there was very little he could do to help in this action because "he wasn't there to  
11 hear anything that [he] can remember" in regards to Defendant Meza's discussion with Plaintiff.  
12 He further states that he does not see a need for his transport since he has nothing to say that  
13 would help this case. Coleman Decl. Ex. A.

14 Accordingly, because Inmate Howard states that he cannot remember anything that  
15 would be of use to Plaintiff at trial, the Court GRANTS Defendants' request and VACATES the  
16 Writ of Habeas Ad Testificandum to transport Inmate Mark Howard, CDC #K-66087.

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18 IT IS SO ORDERED.  
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20 Dated: February 28, 2014

21 /s/ Lawrence J. O'Neill  
22 UNITED STATES DISTRICT JUDGE  
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