1 2 3 4 5 UNITED STATES DISTRICT COURT 6 EASTERN DISTRICT OF CALIFORNIA 7 8 9 BRIAN ELLIS PORTER, Case No. 1:10-cv-01500-BAM (PC) 10 Plaintiff, ORDER DENYING INMATE PERRY'S MOTION TO BE EXCLUDED AS 11 PLAINTIFF'S WITNESS AS MOOT v. 12 CHERYLEE WEGMAN. (ECF No. 171) 13 Defendant. 14 Plaintiff Brian Ellis Porter ("Plaintiff") is a state prisoner proceeding pro se and in forma 15 16 pauperis in this civil rights action under 42 U.S.C. § 1983. This action proceeds on Plaintiff's 17 claims against Defendant Wegman for violation of the Free Exercise Clause of the First Amendment. 18 19 On June 26, 2017, Plaintiff filed a motion for attendance of unincarcerated and 20 incarcerated witnesses. (ECF No. 157.) Following the telephonic trial confirmation hearing held 21 on July 11, 2017, the Court issued an order denying Plaintiff's motion with respect to the 22 attendance of incarcerated witnesses Donald Ray Perry (CDCR #P92110), George Hamilton (CDCR #K54885), Allen B. Williams (CDCR #C09851), and Jimmy Serna (CDCR #AK2741). 23 (ECF No. 167.) 24 Currently before the Court is a motion to be excluded as Plaintiff's witness, filed by 25 26 Donald R. Perry, Sr. (P-92110), on July 10, 2017. (ECF No. 171.) As Plaintiff's motion for the 27 attendance of incarcerated witnesses has been denied, the Court finds it unnecessary to reach the 28 merits of Inmate Perry's motion.

Accordingly, IT IS HEREBY ORDERED as follows: 1. Inmate Perry's motion to be excluded as Plaintiff's witness (ECF NO. 171) is DENIED as moot; 2. The Clerk of the Court shall serve a copy of this order on Inmate Perry at Correctional Training Facility (CTF), P.O. Box 689, Soledad, CA, 93960. IT IS SO ORDERED. 1s/ Barbara A. McAuliffe Dated: **July 19, 2017** UNITED STATES MAGISTRATE JUDGE