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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

TIMOTHY HOWARD,  
Plaintiff,

v.

D. L. DeAZEVEDO, et al.,  
Defendants.

Case No. 1:11-cv-00101-AWI-SKO (PC)

ORDER (1) VACATING TELEPHONIC TRIAL CONFIRMATION HEARING, JURY TRIAL, AND PRETRIAL SUBMISSION DATES, (2) SETTING TELEPHONIC STATUS CONFERENCE FOR APRIL 13, 2015, AT 3:00 P.M. AND (3) REQUIRING DEFENSE COUNSEL TO FILE STATUS REPORT ON OR BEFORE APRIL 9, 2015, IF PARTIES REACH SETTLEMENT AGREEMENT

(Docs. 127 and 128)

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Plaintiff Timothy Howard (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 20, 2011. This action for damages is proceeding on Plaintiff’s amended complaint against Defendants DeAzevedo, Paz, and Stephens for retaliating against Plaintiff by searching his cell and confiscating or destroying his personal property, in violation of the First Amendment; against Defendant DeAzevedo for retaliating against Plaintiff by issuing him a false Rules Violation Report; and against Defendant James for depriving Plaintiff of his right to a fair disciplinary hearing by an impartial decision maker, in violation of the Due Process Clause of the Fourteenth Amendment. (Docs. 9, 11, 14, 28, 33.) This case is currently set for a telephonic trial confirmation hearing on March 30, 2015, at 3:00 p.m. and jury trial on April 21, 2015, at 8:30 a.m.

1           The parties have agreed that a settlement conference may be beneficial in this case and  
2 Plaintiff is presently scheduled to personally appear in the Sacramento Division of this district on  
3 April 2, 2015, for a settlement conference in a separate civil case. The settlement judge, United  
4 States Magistrate Judge Kendall J. Newman, has agreed to conduct a settlement conference in this  
5 case at 1:00 p.m. on April 2, 2015. That issue will be addressed further in a separate order.

6           On March 23, 2015, Plaintiff informed court staff that he would be transported from  
7 Pelican Bay State Prison for the settlement conference without his personal/legal property and the  
8 Court has confirmed he was already transferred to California State Prison-Sacramento for the  
9 settlement conference. As a practical matter, Plaintiff's inability to access his legal property  
10 prevents him from engaging in trial preparation in this case. If this case settles on April 2, 2015,  
11 trial will be moot but in the event it does not settle, the logistical difficulties presented by  
12 Plaintiff's transfer back to Pelican Bay State Prison, his need to access his legal property to  
13 prepare for trial, and the need for him to be transferred with his legal property for trial on April 21,  
14 2015, appear significant. In addition, the Court needs to order the transportation of three other  
15 inmate witnesses. Ordering their transfer prior to the settlement conference risks unnecessarily  
16 disrupting their housing and other programming statuses, and ordering their transfer after the  
17 settlement conference shortens the notice period the Court strives to provide the California  
18 Department of Corrections and Rehabilitation. Finally, allowing the parties in this case to focus  
19 fully on settlement best serves the parties' interests and judicial resource conservation.

20           Therefore, the telephonic trial confirmation hearing and trial dates will be vacated and a  
21 status hearing will be set for April 13, 2015, at 3:00 p.m. to set new dates. If the case settles on  
22 April 2, 2015, Deputy Attorney General R. Lawrence Bragg shall file a status report on or before  
23 April 9, 2015, and the Court will vacate the hearing set for April 13, 2015.

24           Accordingly, the Court HEREBY ORDERS as follows:

- 25           1.       The telephonic trial confirmation hearing set for March 30, 2015, at 3:00 p.m. and  
26                   jury trial set for April 21, 2015, at 8:30 a.m., along with all related pretrial  
27                   submission dates set in the Pretrial Order, are VACATED;

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2. A telephonic status hearing is set for April 13, 2015, at 3:00 p.m. to set new dates;
3. Deputy Attorney General R. Lawrence Bragg is requested to arrange for the conference call and to initiate the call to (559) 499-5669; and
4. If the parties settle the case on April 2, 2015, Deputy Attorney General R. Lawrence Bragg shall file a status report on or before April 9, 2015, and the hearing set for April 13, 2015, will be vacated.

IT IS SO ORDERED.

Dated: March 27, 2015

  
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SENIOR DISTRICT JUDGE