1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 KEVIN DARNELL BRYANT, Case No. 11-cv-00446-BAM (PC) 12 Plaintiff. ORDER DENYING PLAINTIFF'S REOUEST REGARDING ISSUANCE OF WRIT OF 13 HABEAS CORPUS AD TESTIFICANDUM v. 14 GALLAGHER, et al., (ECF No. 320) 15 Defendants. 16 17 Plaintiff Kevin Darnell Bryant ("Plaintiff") is a state prisoner proceeding in forma 18 pauperis in this civil rights action under 42 U.S.C. § 1983. This action proceeds against 19 Defendants Gallagher and Romero for conspiracy, retaliation in violation of the First 20 Amendment, and failure to protect in violation of the Eighth Amendment; and against Defendant 21 A. Romero for deliberate indifference to serious medical needs in violation of the Eighth 22 Amendment. 23 On April 17, 2017, Plaintiff filed the instant request regarding the issuance of the writ of 24 habeas corpus ad testificandum ordering his appearance at trial. First, Plaintiff requests that the 25 writ specify that he not be transported until Friday, May 12, 2017, in order that he may prepare for trial with counsel at Salinas Valley State Prison on May 11, 2017. Second, Plaintiff requests 26 that the writ specify that he be transported back immediately following trial, but no later than 27

May 19, 2017, as Plaintiff believes that after ten days his cell will be reassigned and the majority

28

of his personal belongings and legal documents/resources will be disposed of. Finally, Plaintiff requests that the writ specify that he not be housed at Kern Valley State Prison during transport, due to safety concerns.

"The district court's power to issue a writ of habeas corpus ad testificandum to secure the testimony of a state prisoner witness is beyond dispute." Wiggins v. Alameda Cty., 717 F.2d 466, 468 n.1 (9th Cir. 1983) (citing Ballard v. Spradley, 557 F.2d 476, 480 (5th Cir. 1977)); 28 U.S.C. § 2241(c)(5). However, federal courts ought to afford appropriate deference and flexibility to state officials in the day-to-day management of prisons. See Sandin v. Conner, 515 U.S. 472, 482 (1995). While the Court has issued a writ ordering the Warden of Salinas Valley State Prison to produce Plaintiff for a specific trial date, the Court otherwise declines to dictate how the California Department of Corrections and Rehabilitation will comply with the requirements of the writ.

Accordingly, Plaintiff's request to specify the dates and locations for transport is HEREBY DENIED. The Court has issued a writ of habeas corpus ad testificandum ordering Plaintiff's appearance at trial by separate order.

IT IS SO ORDERED.

Dated: April 18, 2017 /s/ Barlara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE