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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF CALIFORNIA  
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8 ROBERTO M. GARCIA, Jr.

9 Plaintiff,

10 vs.

11 MATTHEW M. JUAREZ, Jr.,

12 Defendant.  
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1:12-cv-00750-AWI-EPG

ORDER GRANTING REQUEST FOR  
RECONSIDERATION OF COURT'S  
AUGUST 24, 2016 ORDER TO ALLOW  
DISCS TO BE HELD IN PRISON  
LITIGATION OFFICE

(ECF No. 99)

15 Roberto M. Garcia Jr. ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*  
16 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. This case now proceeds on  
17 the First Amended Complaint, filed on June 14, 2013, against defendant Sergeant Matthew M.  
18 Juarez, Jr. ("Defendant") for excessive force.

19 On August 24, 2016, this Court issued an Order requiring the California Department of  
20 Corrections and Rehabilitation (CDCR) to "provide Plaintiff with all documents withheld under  
21 the official information privilege and provided in camera to the Court in its July 25, 2016  
22 submitting." The Court further ordered that "[t]o the extent that Plaintiff's confinement  
23 prevents him from viewing or listening to such evidence, the CDCR shall make available a  
24 mechanism for Plaintiff to review such evidence consistent with the CDCR's security measures  
25 within 30 days from delivery to Plaintiff." (ECF No. 96, p.2)

26 On September 7, 2016, the CDCR filed a request for reconsideration of the Court's  
27 August 24, 2016 order to allow discs to be held in the prison litigation office. The CDCR  
28 represents that "California inmates are not allowed to possess compact discs unless they are . . .

1 factory sealed and pre-recorded,” and that allowing Plaintiff to possess the compact discs  
2 would be a violation of departmental policy. The CDCR requests modification of the Court’s  
3 order “to allow the litigation office to hold the compact discs for Garcia and make them  
4 available to him for review.” The CDCR also represents that the litigation office has already  
5 arranged for Plaintiff to review the interviews on the discs on September 22, 2016.

6 The Court is mindful of the security issues presented by Plaintiff’s incarceration and  
7 finds that the proposal from the CDCR appropriately balances the security interests of the  
8 prison with the Plaintiff’s need to view the evidence in support of his case. Accordingly, it is  
9 ordered that:

- 10 • So long as Plaintiff remains incarcerated, the CDCR may make any evidence  
11 available only in disc form available to Plaintiff by maintaining those discs in  
12 the litigation office and providing Plaintiff an opportunity to review them in the  
13 litigation office at a reasonable time. The Court finds that September 22, 2016  
14 is a reasonable time.
- 15 • If Plaintiff’s incarceration ends while this case is still pending, the CDCR shall  
16 make the discs available to Plaintiff at that time.
- 17 • To the extent Plaintiff is represented by counsel, the CDCR shall also make a  
18 copy of the discs available to Plaintiff’s counsel upon notification of that  
19 representation.

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21 IT IS SO ORDERED.

22 Dated: September 9, 2016

23 /s/ Eric P. Grosz  
24 UNITED STATES MAGISTRATE JUDGE  
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