

1 him on January 1, 2016 that they are willing to testify voluntarily. He states that each of
2 the proposed witnesses “has firsthand, eyewitness knowledge of events that transpired
3 leading up to the assault of Plaintiff’s person and have materials facts that will be
4 presented at trial.” Plaintiff provides no further detail regarding the proposed testimony,
5 but refers the Court to sworn declarations previously submitted by each of the proposed
6 witnesses.

7 The Court presumes that Plaintiff is referring to declarations submitted along with
8 his objections to the findings and recommendations to grant Defendants’ motion for
9 summary judgment. (ECF No. 31.) Therein, Plaintiff’s proposed witnesses attested as
10 follows.

11 Sam Consiglio states that he witnessed threats and assaults by Jackson on fellow
12 detainees. Consiglio spoke with staff and the Unit Advisory Council regarding his
13 concerns about Jackson without result. On March 24, 2013, he wrote to Audrey King,
14 Executive Director of Coalinga State Hospital, to warn her about Jackson. King did not
15 respond until June 5, 2013. In the meantime, on April 27, 2013, Jackson attacked
16 Plaintiff in the dorm Plaintiff and Consiglio shared. Consiglio did not see the attack but
17 heard the altercation and found Plaintiff injured. The next day, Consiglio spoke with
18 Defendants, who told Consiglio they were aware of his prior complaints about Jackson.

19 Flint states he observed Jackson attacking fellow patients and also heard other
20 patients complaining about Jackson. He told the patients to write up their complaints; all
21 but Consiglio refused. From February through April 2013, Flint relayed concerns about
22 Jackson to unit staff. These concerns were raised at the Unit Advisory Council and Civil
23 Detainees’ Advisory Council. Flint understood that the unit psychologists (i.e.
24 Defendants) were made aware of his concerns and that they were being dealt with. Flint
25 was on the unit during the April 27, 2013 attack on Plaintiff, heard the commotion, and
26 saw Plaintiff’s injuries.

1 D'Agostini states that Jackson threatened him on February 20, 2013, as well as
2 on other occasions. D'Agostini told staff about the threats and also brought it up during
3 his team meeting with no result.

4 **III. LEGAL STANDARD**

5 The Court has discretion to grant a motion for the attendance of incarcerated
6 witnesses if the moving party has shown the witnesses have relevant information and
7 the Court determines the witnesses' presence will substantially further the resolution of
8 the case. Wiggins v. County of Alameda, 717 F.2d 466, 468 n.1 (9th Cir. 1983).

9 **IV. DISCUSSION**

10 The proposed witnesses have information relevant to the determination of
11 whether Defendants knew of a threat to Plaintiff's safety from Jackson. Indeed, the
12 declarations discussed herein were relied on by the District Judge in concluding that
13 disputed issues of fact precluded summary judgment. Their testimony may be critical to
14 the jury's determination of whether Defendants had such knowledge, and therefore will
15 substantially further resolution of the case.

16 **V. CONCLUSION**

17 Based on the foregoing, Plaintiff has made a sufficient showing to warrant making
18 these witnesses available to testify at trial.

19 Accordingly, his motion is HEREBY GRANTED. The Court will separately issue
20 Writs of Habeas Corpus ad Testificandum for Detainees Consiglio, Fleet, and D'Agostini.

21 IT IS SO ORDERED.
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23 Dated: February 12, 2016

24 /s/ Michael J. Seng
25 UNITED STATES MAGISTRATE JUDGE
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