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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PERRY WASHINGTON, et al,

Plaintiffs,

v.

FRESNO COUNTY SHERIFF, et al.,

Defendants.

Case No. 1:14-cv-00129-SAB

ORDER REGARDING PROCEDURES
RELATED TO EVIDENTIARY HEARING
ON EXHAUSTION

This action is proceeding on Plaintiff Perry Washington’s claims against Defendant Veloz alleging deliberate indifference in violation of the Eighth Amendment and retaliation in violation of the First Amendment. Defendant’s filed a motion for summary judgment which was denied on December 6, 2017. Defendant filed a motion for reconsider which the Court has granted in an order filed concurrently with the instant order. An evidentiary hearing has been set before the undersigned on April 10, 2018, at 9:00 a.m. on the issue of whether Plaintiff exhausted his administrative remedies prior to filing this action. See Albino v. Baca, 747 F.3d 1162, 1170 (9th Cir. 2014).

As addressed in the Order Granting Defendant’s Motion for Reconsideration of Denial of Motion for Summary Judgment or Alternately for Albino Hearing Re Summary Judgment and Setting Evidentiary Hearing, the Court will hear evidence on the following issues during the hearing:

- 1 1. Whether Plaintiff was provided with an inmate handbook upon his incarceration
- 2 at Fresno County Jail;
- 3 2. Whether jail officials refused to accept Plaintiff's grievance against Defendant
- 4 Veloz;
- 5 3. Whether Plaintiff thereafter attempted to grieve the alleged acts through Internal
- 6 Affairs;
- 7 4. Whether Defendant Veloz threatened Plaintiff and offered him a bribe to drop his
- 8 grievance; and
- 9 5. Whether Plaintiff withdrew his grievance against Defendant Veloz.

10 A separate order and writ of habeas corpus ad testificandum for Plaintiff will be issued as the
11 hearing approaches. The parties shall arrange to bring and present their witnesses and evidence
12 during the evidentiary hearing.

13 Any unincarcerated witnesses may appear voluntarily without further order of the Court.
14 To the extent that the parties seek to have incarcerated witnesses appear for the evidentiary
15 hearing, all motions for the attendance of incarcerated witnesses must be filed on or before
16 **March 9, 2018**. The witnesses must have relevant evidence regarding the issues described above.
17 The motion should be entitled "Motion for Attendance of Witnesses." The motion must: (1) state the
18 name, address, and prison identification number (if any) of each witness to be called; (2) explain
19 what relevant information each witness has, and how that witness has personal knowledge of the
20 relevant information; and (3) state whether each such witness is willing to voluntarily testify. Any
21 opposition to a motion for the attendance of incarcerated witnesses must be filed on or before **March**
22 **14, 2018**.

23 No later than **March 13, 2018**, the parties shall confer regarding the witnesses to be called
24 and the evidence to be presented at the hearing. No later than **April 3, 2018**, each party shall file
25 and serve a witness list. The parties shall be prepared to submit exhibits in proper form at the
26 evidentiary hearing, with proper foundation. The original and two copies of all exhibits, along
27 with exhibit lists, shall be submitted to Courtroom Deputy Mamie Hernandez no later than **April**
28 **3, 2018**. Plaintiff's exhibits shall be pre-marked using numbers beginning with 1 (e.g., 1, 2,

1 etc.). Defendants' exhibits must be pre-marked using letters beginning with A (e.g., A, B, C ...
2 AA, BB, CC ... AAA, BBB, CCC, etc.).

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4 IT IS SO ORDERED.

5 Dated: February 21, 2018


UNITED STATES MAGISTRATE JUDGE

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