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

KHADAPHI PROCTOR,  
  
Plaintiff,  
  
v.  
  
JIMMY MACIAS, et al.,  
  
Defendants.

Case No. 1:16-CV-01120-DAD-SKO  
  
**ORDER GRANTING DEFENDANTS'  
EX PARTE APPLICATION TO TAKE  
DEPOSITION OF JACOB EUGENE  
ROBERTSON, AN INCARCERATED  
PERSON**  
  
(Doc. 38)

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Plaintiff Khadaphi Proctor (“Plaintiff”) is a state prisoner proceeding through counsel in this civil rights action pursuant to 42 U.S.C. § 1983. This action currently proceeds on Plaintiff’s first amended complaint for excessive force in violation of the Eighth Amendment against Defendants Sergeant Jimmy Macias, Derek Curry, Conrad Santos, Russell Hudson, Alexander Jimenez, Carlos Ochoa, Jamie Short, and Lorin Smalley. (Doc. 20.) Currently before the Court is

1 Defendants Macias', Curry's, Santos', Hudson's, Jimenez's, Ochoa's, and Short's ex parte  
2 application to take the deposition of Jacob Eugene Robertson, a person confined in state prison  
3 (the "Application"). (Doc. 38.)

4 Under Federal Rule of Civil Procedure 30(a)(2)(B), the deposition of a deponent who is  
5 confined in prison may be taken with leave of court. Fed. R. Civ. P. 30(a)(2)(B). Leave must be  
6 granted, to the extent consistent with Rule 26(b)(1) and (2). Defendants seek to depose Mr.  
7 Robertson, whom Plaintiff has identified as a witness in this matter, with the deposition to be  
8 scheduled upon reasonable notice. (Doc. 38 at 1.) As such, the proposed deposition is well-within  
9 the scope of discovery, and does not appear to exceed any of the limitations set forth in Rule  
10 26(b)(2). Thus, the Application seeking leave to depose Mr. Robertson in this matter is  
11 GRANTED.

12 The parties shall meet and confer on a convenient date and time for the deposition of Mr.  
13 Robertson that is also convenient for the prison facility. Pursuant to Federal Rule of Civil  
14 Procedure 30(b)(4), the parties may take the deposition of Mr. Robertson by video conference,  
15 subject to the policies and procedures of the prison facility regarding the manner in which the  
16 deposition may be taken.

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18 IT IS SO ORDERED.

19 Dated: August 10, 2017

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE

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