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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 JEREMY JONES,

11 Plaintiff,

12 vs.

13 ARNETTE, et al.,

14 Defendants.

1:16-cv-01212-DAD-GSA-PC

**ORDER DENYING PLAINTIFF’S MOTION TO
REVIEW AND CORRECT DEPOSITION
TRANSCRIPT, AND GRANTING EXTENSION
OF TIME TO FILE OPPOSITION TO MOTION
FOR SUMMARY JUDGMENT**

(ECF No. 141.)

DEADLINE:

SEPTEMBER 29, 2023

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18 **I. BACKGROUND**

19 Jeremy Jones (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis*
20 with this civil rights action pursuant to 42 U.S.C. § 1983 and the Americans with Disabilities Act
21 (ADA), 42 U.S.C. § 12132. This case now proceeds with Plaintiff’s ADA claims against
22 Defendants Keener, Gonzalez, Flores, Arnett, and Zamora; Plaintiff’s Eighth Amendment claims
23 against Defendants Keener and Gonzalez; and Plaintiff’s due process claims against Defendants
24 Keener and Gonzalez. (ECF, Nos 47 & 131).

25 On August 21, 2023, Plaintiff filed a motion to compel and a motion for extension of
26 time. (ECF No. 141.) The Court construes Plaintiff’s motion to compel as a motion to review
27 and correct his deposition transcript. On August 30, 2023, Defendants filed an opposition. (ECF
28 No. 142).

1 **II. MOTION TO REVIEW AND CORRECT DEPOSITION TRANSCRIPT**

2 Rule 30(e) of the Federal Rules of Civil Procedure provides that:

3 **30(e) Review by the Witness; Changes.**

4 (1) *Review; Statement of Changes.* On request by the deponent or a
5 party before the deposition is completed, the deponent must be
6 allowed 30 days after being notified by the officer that the
7 transcript or recording is available in which:

8 (A) to review the transcript or recording; and

9 (B) if there are changes in form or substance, to sign a
10 statement listing the changes and the reasons for making
11 them.

12 (2) *Changes Indicated in the Officer's Certificate.* The officer must
13 note in the certificate prescribed by Rule 30(f)(1) whether a
14 review was requested and, if so, must attach any changes the
15 deponent makes during the 30-day period.

16 Fed. R. Civ. P. 30(e).

17 Plaintiff seeks a court order compelling Kern Valley State Prison's Litigation Coordinator
18 to provide Plaintiff with the opportunity to review his deposition transcript and correct any errors.
19 Attached to Plaintiff's motion is an Inmate Request for Interview on form GA-22 to the Litigation
20 Coordinator, dated July 26, 2023, in which Plaintiff requested the following:

21 "I've lost count of how many requests I've filed regarding this issue that has gone
22 unanswered and how many times I spoke to the officer to no avail. I need to go
23 over my deposition to correct any misquotes. My deadline is the 18th, therefore
24 if there isn't a timely response, I'll be forced to file a motion to compel with the
25 courts."

26 (ECF No. 141 at 3 (Exhibit)).

27 Defendants argue that it is too late for Plaintiff to review and make changes to his
28 deposition transcript. The discovery deadline, March 12, 2023, has expired and granting

1 Plaintiff's motion now would cause great prejudice to Defendants, who have filed a motion for
2 summary judgment using exhibits from the transcript of Plaintiff's deposition. The deposition
3 was taken on August 5, 2021, and the Attorney General's Office received a copy of the transcript.
4 (Decl. of Jason Torres, ECF No. 142 at 4 ¶¶3, 4.) Counsel for Defendants declares that the
5 deposition transcript was used in preparing Defendants' motion for summary judgment, and
6 specifically pages 18, 20, 22-23, 27, 30, 58, 63-64, 66-67, and 72-73 were used as exhibits in
7 support of the motion. (Id. ¶5.) Defendants argue that allowing changes to the deposition now,
8 after Plaintiff has had an opportunity to read Defendants' arguments in the motion for summary
9 judgment, would greatly prejudice Defendants. Counsel for Defendants declares that he has
10 reviewed a transcript of the deposition, which was lodged with the Court at the time of the filing
11 of the motion for summary judgment on May 12, 2023, and did not find any request to review a
12 copy of the transcript by Plaintiff. (Id. ¶7.)

13 **Discussion**

14 Federal Rule of Civil Procedure 30(e) indeed allows for deponents to review deposition
15 transcripts, but only "[o]n request by the deponent or a party before the deposition is completed."
16 Arellano v. California Dep't Corr. & Rehab., No. 120CV00011SABPC, 2022 WL 934135, at *2
17 (E.D. Cal. Mar. 29, 2022), report and recommendation adopted, No. 120CV00011AWISABPC,
18 2022 WL 2791994 (E.D. Cal. July 15, 2022) (citing Fed. R. Civ. P. 30(e)(1) ("On request by the
19 deponent or a party before the deposition is completed, the deponent must be allowed 30 days
20 after being notified by the officer that the transcript or recording is available in which: (A) to
21 review the transcript or recording; and (B) if there are changes in form or substance, to sign a
22 statement listing the changes and the reasons for making them.")). Federal Rule of Civil
23 Procedure 30(f)(3) requires the court reporter "when paid reasonable charges," to "furnish a copy
24 of the transcript . . . to any party or the deponent." Fed. R. Civ. P. 30(f)(3). Id.

25 Plaintiff has not provided evidence that he made a request to review the deposition
26 transcript before the deposition was completed. In his July 26, 2023 request to the Litigation
27 Coordinator, Plaintiff states that he made more than one request to review his deposition
28 transcript, but he does not indicate when or to whom he made requests or whether he received

1 any response. Plaintiff simply does not provide enough evidence or argument for the Court to
2 allow him to review his deposition testimony and make changes at this late stage of the litigation.
3 Therefore, Plaintiff's motion shall be denied.

4 Plaintiff is advised that Rule 30(e) permits corrections in form and substance, not changes
5 that significantly alter Plaintiff's responses to deposition questions. Id. (citing Hambleton Bros.
6 Lumber Co. v. Balkin Enterprises, Inc., 397 F.3d 1217, 1225-26 (9th Cir. 2005). Thus, Rule 30(e)
7 allows for corrective, not contradictory, changes. Id. Thus, the answers given in Plaintiff's
8 deposition cannot be contradicted, even if he did intend to make corrections to the transcript's
9 form and substance.

10 **III. MOTION FOR EXTENSION OF TIME**

11 Plaintiff also requests an extension of time to file an opposition to Defendants' motion
12 for summary judgment. The Court finds good cause to grant Plaintiff an extension of time until
13 September 29, 2023.

14 **IV. CONCLUSION**

15 Based on the foregoing, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's motion to review and correct his deposition, filed on August 21, 2023,
17 is DENIED; and
- 18 2. Plaintiff is GRANTED an extension of time until September 29, 2023, in which
19 to file an opposition to Defendants' motion for summary judgment.

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22 IT IS SO ORDERED.

23 Dated: September 6, 2023

24 /s/ Gary S. Austin
25 UNITED STATES MAGISTRATE JUDGE
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