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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROUSER,

Plaintiff,

No. CIV S-93-0767 LKK GGH P

vs.

THEO WHITE, et al.,

Defendants.

O R D E R

_____ /

On February 4, 2010, defendants filed a motion for an evidentiary hearing to obtain testimony of Lisa Morgenstern along with their opposition to plaintiff's motion for a preliminary injunction. On February 8, 2010, the court granted defendants motion. In so doing, the court postponed the hearing on plaintiff's motion for a preliminary injunction from February 22, 2010 to March 3, 2010 so that defendants could subpoena Ms. Morgenstern.

On March 1, 2010, defendants filed a motion to vacate the evidentiary hearing, Doc. 495. Defendants indicate in their request that they have "released [Ms. Morgenstern] from her


1 subpoena." Id. On March 2, 2010, plaintiff filed an opposition to
2 defendants' request to vacate the evidentiary hearing, Doc. 496.
3 In this opposition, plaintiff indicates that he believes Ms.
4 Morgenstern has "already made arrangements to be present at the
5 hearing and . . . is willing to testify." Plaintiff further
6 expects Ms. Morgenstern to "testify that on those few occasions
7 [where] she has been able to lead services: (1) the inmates
8 consistently have been released late; (2) the inmates were
9 unaware that Ms. Morgenstern was at the prison and that services
10 would occur; and (3) defendants have ended services prior to the
11 scheduled end time without any explanation."

12 For the foregoing reasons, the court orders that defendants'
13 request to vacate the evidentiary hearing, Doc. 495, is DENIED.

14 Defendants have filed a reply to plaintiff's opposition. In
15 this reply, defendants raise several objections that will be
16 heard at the hearing. If plaintiff is unable to procure Ms.
17 Morgenstern's appearance at the hearing, these objections will
18 be moot.

19 IT IS SO ORDERED.

20 DATED: March 2, 2010.

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23 LAWRENCE K. KARLTON
24 SENIOR JUDGE
25 UNITED STATES DISTRICT COURT
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