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

PAUL P. MAGNAN,

Plaintiff,

No. CIV S-03-1099 GEB KJM P

vs.

DAVID RUNNELS, et al.,

Defendants.

ORDER

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Plaintiff's counsel has filed a motion in which he requests that the court order Santa Clara County Jail officials to allow plaintiff to speak with counsel one hour every day on an unmonitored telephone line so that plaintiff can assist counsel in responding to the pending motions for summary judgment. Counsel indicates he served his motion on Santa Clara County Jail Officials and that its content is based on conversation with one official in particular.

Counsel represents that plaintiff is currently limited to approximately one 20-minute call to counsel per day, that those calls cannot be scheduled and that each call is monitored. Counsel does not suggest that he is unable to schedule a face to face meeting of sufficient duration with plaintiff at the jail, although the court notes counsel lives at some distance from the jail. Counsel does say plaintiff is scheduled to be released on May 8.

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1           The court has granted plaintiff at least four continuances of the hearing on the  
2 pending motions for summary judgment due, at least in part, to the difficulties counsel has had in  
3 communicating with plaintiff. The court is not prepared to grant the current motion for the  
4 following reasons: Nothing has been filed by Santa Clara County Jail officials addressing  
5 counsel's proposal. Furthermore, counsel has not shown that he is not able to arrange to speak  
6 with plaintiff face-to-face, or that it is unreasonable to expect counsel to meet with plaintiff face-  
7 to-face rather than by telephone in order to confer regarding the pending motions for summary  
8 judgment.

9           The court on its own motion will continue the hearing on the motions for  
10 summary judgment one final time to allow counsel's communication with plaintiff, including  
11 after plaintiff leaves custody on May 8. The court will not grant any further extension absent a  
12 showing of extraordinary cause and unforeseeable circumstances making impossible the filing of  
13 oppositions to the pending motions for summary judgment by the new due date, or participation  
14 at the hearing on those motions.

15           Accordingly, IT IS HEREBY ORDERED that:

16           1. Plaintiff's April 19, 2010 request for an order regarding telephone access at the  
17 Santa Clara County Jail is denied.

18           2. The hearing scheduled in this matter for May 12, 2010 is continued to June 9,  
19 2010 at 10:00 a.m.

20 DATED: April 27, 2010.

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23 U.S. MAGISTRATE JUDGE

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