

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

AARON L. COOPER,

Plaintiff,

No. 2:05-cv-1043 GEB JFM (PC)

vs.

M. ARMSTRONG,

Defendants.

ORDER

_____ /

On May 27, 2009, the undersigned issued an order addressing plaintiff’s renewed motion for the attendance of incarcerated witnesses. On June 26, 2009, defendant filed an amended response to the May 27, 2009 order, in which defendant complains that plaintiff failed to follow the court’s instructions on obtaining attendance of incarcerated witnesses, and asks the undersigned to reimpose its original ruling that denied plaintiff’s request for incarcerated witnesses. Stripped to its essence, defendant seeks reconsideration of the court’s May 27, 2009 order. Local Rule 72-303(b), states “rulings by Magistrate Judges shall be final if no reconsideration thereof is sought from the Court within ten court days . . . from the date of service of the ruling on the parties.” E.D. Local Rule 72-303(b). Defendant’s request for reconsideration of the order of May 27, 2009 is therefore untimely.

////

1 Defendant has notified the court that alleged witness Robinson has been sentenced
2 to serve a new prison term and is now housed at San Quentin Prison; his CDCR number is F-
3 88830. Plaintiff maintains that inmate Robinson was a witness to the events at the pedestrian
4 gate at issue herein. (February 26, 2009 Renewed Request for Witnesses.) The record, however,
5 does not reflect whether inmate Robinson is willing to testify voluntarily. The Clerk will be
6 directed to send inmate Robinson a Notice re Potential Witness to complete and return to inform
7 the court whether he will testify or refuse to testify.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Defendant's June 26, 2009 request is denied; and
- 10 2. The Clerk of the Court is directed to send the attached "Notice re Potential
11 Witness" to inmate Robinson, CDCR #F-88830, San Quentin State Prison, San Quentin,
12 California 94974, and shall provide a stamped, self-address envelope to facilitate return of the
13 form. The Clerk shall not serve a copy of the instant order on inmate Robinson.

14 DATED: July 2, 2009.

15
16 
17 UNITED STATES MAGISTRATE JUDGE

18 /001;coop1043.851
19
20
21
22
23
24
25
26

1 United States District Court
2 Eastern District of California
3 501 I Street, 4th Floor
4 Sacramento, CA 95814
5

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

8 AARON L. COOPER,

9 Plaintiff,

No. 2:05-cv-1043 GEB JFM (PC)

10 vs.

11 M. ARMSTRONG,

12 Defendants.

NOTICE RE

POTENTIAL WITNESS

13 _____ /
14 Inmate Robinson, CDCR #F-88830, has been identified as a potential witness to events
15 that took place at the D-facility at High Desert State Prison in Susanville, California (High
16 Desert), on November 22, 1999. Within thirty days from the date of this order, inmate Robinson,
17 CDCR #F-88830 shall complete and file with this court the instant notice re potential witness
18 form.

19 I, inmate Robinson, CDCR #F-88830, respond as follows (check all that apply):

20 _____ I am willing to testify.

21 _____ I do not remember the events of November 22, 1999.

22 _____ I refuse to testify voluntarily.

23 I declare under penalty of perjury that the above and foregoing is true and correct.

24 DATED:

25 _____
26 Witness (sign & print name)