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

9 KEVIN KING,

10 Plaintiff,

No. CIV S-06-0065 LKK GGH P

11 vs.

12 CALIFORNIA DEPARTMENT OF  
13 CORRECTIONS, et al.,

14 Defendants,

ORDER

15 \_\_\_\_\_/  
16 Plaintiff, a former state prisoner, is proceeding pro se with a civil rights action  
17 pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's second motion to resolve  
18 issues concerning his upcoming trial. (Doc. 141.) Specifically, plaintiff contests the  
19 undersigned's ruling on September 10, 2010 that he may not designate an additional trial witness,  
20 Don Took, because his attempt to add this witness is untimely pursuant to the pretrial order.  
21 (Doc. 140.)

22 Initially, plaintiff stated that Took "signed a sworn deposition at High Desert  
23 state prison and told plaintiff what he saw" concerning plaintiff's instant allegations, and that  
24 plaintiff attached this deposition to the Second Amended Complaint. (Doc. 139.) In fact,  
25 attached to the Second Amended Complaint is a sworn declaration by Don Took and Lorenzo  
26 Ruffin, signed and dated by Took on September 14, 2005. (Doc. 12 at 61-63.) Plaintiff now

1 claims that he “discovered the long lost witness on or about August 8 or 9th 2010 . . . 11 days  
2 after the pretrial conference.” Even if plaintiff recently located Tookes after losing track of his  
3 whereabouts, it does not affect the outcome under the rules regarding untimely witnesses as set  
4 forth in the pretrial order.<sup>1</sup> Plaintiff is advised that the undersigned will not revisit or revise its  
5 September 10, 2010 decision in this matter.

6 Accordingly, IT IS HEREBY ORDERED that plaintiff’s second motion to resolve  
7 various issues concerning trial (Doc. 141) is denied.

8 DATED: September 30, 2010

/s/ Gregory G. Hollows

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10 GREGORY G. HOLLOWES  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> For one thing, plaintiff has made no showing that he would call Tookes “for the  
26 demonstrated purpose of rebutting evidence which could not be reasonably anticipated at the  
pretrial conference,” as required by the pretrial order. (Doc. 128.)