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

KEVIN KING,

Plaintiff,

No. CIV S-06-0065 LKK GGH P

vs.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS, et al.,

Defendants.

ORDER

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Plaintiff, a former state prisoner, is proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is defendants’ motion in limine to exclude plaintiff’s witness Correctional Lieutenant D. Dharlingue on the ground of irrelevance.

The undersigned has reviewed the record to determine what, if any, relevance this witness has to the issues to be determined at trial. Petitioner’s second amended complaint (SAC) alleges that Lt. Dharlingue found plaintiff “not guilty of manipulation of staff in Appeal No. FA-409-028.” (SAC at 11-12.) This statement is clarified by plaintiff’s proposed Exhibit 24, which appears to be a copy of a general chrono signed by defendant Look. It states that on September 11, 2004, “Inmate King told me that he was going to fall down without his cane and certain Correctional Officers and Medical Staff would be liable.” Plaintiff’s proposed Exhibit 25

1 appears to be a copy of a portion of a Rules Violation Report, Log No. FA-409-028, dated  
2 September 30, 2004. The report documents four witnesses answering questions concerning the  
3 incident alleged by defendant Look in Exhibit 24. None of the witnesses heard plaintiff say that  
4 he planned to fall and injure himself so as to have a lawsuit against the state. The report  
5 concludes that the allegations against plaintiff are “Dismissed. The evidence does not support  
6 the charges.” It was signed by Lt. D. Dharlingue on October 9, 2004. (See Doc. 136 (listing and  
7 attaching plaintiff’s proposed trial exhibits).)

8 Presumably plaintiff seeks to call Lt. Dharlingue to testify further about his  
9 dismissal of these allegations by defendant Look. However, any such testimony would be  
10 irrelevant to the claims at issue in this case, i.e., it would neither tend to confirm nor deny  
11 plaintiff’s allegations that defendants used excessive force against him or disregarded his serious  
12 medical needs. Moreover, defendants have not objected to plaintiff’s Exhibits 24 and 25 on  
13 authenticity or any other grounds. (Doc. 148.) If these exhibits are admitted at trial, they will  
14 speak for themselves as to Lt. Dharlingue’s assessment of the alleged September 11, 2004  
15 incident. There is no conceivable need for Lt. Dharlingue to testify about this documented RVR  
16 in person.

17 Accordingly, for the foregoing reasons, IT IS HEREBY ORDERED that  
18 defendants’ motion in limine excluding plaintiff’s witness (Doc. 147) is GRANTED.

19 DATED: December 7, 2010

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21 /s/ Gregory G. Hollows

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23 GREGORY G. HOLLOWES  
24 UNITED STATES MAGISTRATE JUDGE

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