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

BARRY LAMON,

Plaintiff,
vs.

Civ. No. S-06-156 KJM CKD P

DIRECTOR, CALIFORNIA
DEPARTMENT OF CORRECTIONS
AND REHABILITATION, et al.,

Defendants.

ORDER

_____ /
This case was on calendar on November 9, 2011 for trial confirmation hearing. Plaintiff, proceeding pro se, was present in court; William Downer, Deputy Attorney General, appeared for defendants Ellis, LoRusso and Parks, the only defendants remaining in the case.

At the court's request, counsel for defendants provided a copy of Dr. Paizis's expert report, FED. R. CIV. P. 26(a)(2), to plaintiff and to the court in connection with this court's consideration of plaintiff's motion for the appointment of an impartial psychiatric expert. After review of the report, the court believes that Dr. Paizis's testimony may not be relevant to a determination whether the defendants used excessive force in using pepper spray against plaintiff. Counsel will be given an opportunity to submit a letter brief, no longer than five pages long, addressing his theory of relevance.

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1 In addition, counsel asked to brief why plaintiff's proposed witness, Lenton Hall,
2 should not be brought to court. Counsel will be given this opportunity as well.

3 IT IS THEREFORE ORDERED:

4 1. The trial date of January 23, 2012 is vacated and trial is reset for March 19,
5 2012 at 9:00 a.m.

6 2. Within seven days of the date of this order, defense counsel may submit letter
7 briefs, not to exceed five pages each, explaining his theory of relevance for presenting Dr.
8 Paizis's testimony and his opposition to Lenton Hall's proposed testimony. Plaintiff may reply,
9 also limited to five pages for each letter brief, within seven days of receiving defense counsel's
10 briefs. The Clerk of the Court is directed to seal defendants' and plaintiff's briefs relating to Dr.
11 Paizis's testimony.

12 3. The motion to appoint an impartial photographic expert and impartial expert
13 on the use of force (ECF No. 254) is denied.

14 4. The Clerk of the Court is directed to file the three page report from Dr. Paizis
15 under seal.

16 DATED: November 23, 2011.

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19 UNITED STATES DISTRICT JUDGE
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