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

NYLES LAWAYNE WATSON,

Plaintiff,

No. CIV S-07-1871 LKK GGH P

vs.

D.K. SISTO, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding with appointed counsel, seeks relief pursuant to 42 U.S.C. § 1983. Defendants have very recently noticed two motions to dismiss for hearing on August 6, 2007.¹ On July 7, 2009, defendants Sisto, Rohrer, Noriega, Tan, and Traquina filed a motion for leave to depose plaintiff at California State Prison-Solano on August 7, 2009 at 10:00 a.m., also noticing that motion for hearing on August 6, 2007. Defendants append a copy of the notice of the deposition. Exhibit A to Motion. Defendants also state that although plaintiff's counsel has informed them that he is available for a deposition on that date that he will not produce his client for deposition without a court order. No further order, however, is necessary because the court previously, prior to plaintiff's counsel's appointment, issued a

¹ Defendant Naku brings a separate dismissal motion from that of defendants Sisto, Rohrer, Noriega, Tan, and Traquina.

1 Discovery Order, on April 10, 2008 (docket # 14), which permits defendants to depose plaintiff,
2 pursuant to Fed. R. Civ. P. 30(a), or any other incarcerated witness, so long as defendants serve
3 all parties with the requisite notice, under Fed. R. Civ. 30(b)(1), which the court has stated as at
4 least fourteen days before the deposition. The undersigned, therefore, will vacate defendants'
5 motion; the parties are to abide by the deposition notice procedure as set forth in the Discovery
6 Order. So long as defendants serve, or have served, the notice of deposition in accordance with
7 the Discovery Order, there should be no impediment to proceeding with plaintiff's deposition.

8 Accordingly, IT IS ORDERED that:

9 1. Defendants' July 7, 2009 (docket # 72) motion for leave to take plaintiff's
10 deposition is vacated from the court's calendar as unnecessary; and

11 2. So long as plaintiff's deposition is noticed in accordance with the court's
12 previously filed Discovery Order (docket # 14), it should proceed with no further order from this
13 court.

14 DATED: July 13, 2009

15 /s/ Gregory G. Hollows

16 _____
17 GREGORY G. HOLLOWS
18 UNITED STATES MAGISTRATE JUDGE

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20 wats1871.ord