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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   STEWART MANAGO,

11   Plaintiff,   No. 2:07-cv-2290 LKK KJN P

12   vs.

13   BRAD WILLIAMS, et al.,

14   Defendants.   ORDER

15   _____/

16   Plaintiff is a state prisoner, currently incarcerated at the California Correctional

17   Institution ("CCI"), who proceeds, in forma pauperis and without counsel, in this civil rights

18   action filed pursuant to 42 U.S.C. § 1983. Defendants have filed two motions for summary

19   judgment, which are now fully briefed. Presently pending is plaintiff's June 4, 2012 motion

20   requesting the court's authorization fo file a motion for reconsideration of this court's order filed

21   April 9, 2012.[1] In pertinent part, that order directed defense counsel for defendant Brockett to

22   return confidential audio and written material to the CCI Legal Affairs Office, for the purpose of

23   _____

24   [1] As noted in the court's April 9, 2012 order, due to plaintiff's prolific filings, it became
     necessary for "[p]laintiff [to] request[] permission of the court . . . due to the court's prior
25   instruction that plaintiff refrain from filing any further documents in this court, or from
     corresponding with defense counsel, without prior court authorization. (See Dkt. No. 211 at 1-2;
26   Dkt. No. 206 at 4-5.)" (Dkt. No. 228 at 1.)

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1 | according plaintiff additional opportunity to access the material, and additional time to respond

2 | to the material in a surreply. Defense counsel filed a notice of compliance with the court's order.

3 | Plaintiff thereafter filed a surreply, rendering the motions for summary judgment fully briefed.

4 | Nevertheless, in the present motion, plaintiff states that he was not given access to

5 | the audio files, or the transcript, of the relevant testimony of defendants Brockett and Chapman

6 | before the State Personnel Board, relative to the termination of defendant Brockett (Case No. 06-

7 | 0655). The court's review of this confidential material, submitted under seal by defense counsel,

8 | indicates that there were three days of hearings over a nine-month period, on May 2, 2007,

9 | January 24, 2008, and February 25, 2008. The audio quality is poor, and it appears that no

10 | transcript of these proceedings has been provided to the court, although the administrative law

11 | judge stated at the first hearing that transcripts could be requested.

12 | Accordingly, defendant Brockett will be required to provide both plaintiff and the

13 | court a copy of the full transcript of these proceedings, or show cause why this task cannot be

14 | completed. After defense counsel has complied with this order, the court will address the

15 | necessity of a supplemental briefing schedule in this case, due both to the supplemental material,

16 | and the Ninth Circuit's recent decision in Woods v. Carey, __F.3d __, 2012 WL 2626912 (9th

17 | Cir., July 06, 2012).

18 | For these reasons, IT IS HEREBY ORDERED that:

19 | 1. Plaintiff's motion (Dkt. No. 232), is denied in part and granted in part; plaintiff

20 | shall file no further matters in support of his motion but is granted relief as provided herein.

21 | 2. Within ten (10) days after the filing date of this order, counsel for defendant

22 | Brockett shall:

23 | A.   File under seal, and serve on plaintiff, one copy each of the full transcript

24 | of the above-described proceedings; OR

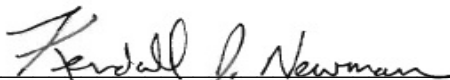25 | B.   Show cause why counsel is unable to comply with this order.

26 | 3. Also within ten (10) days after the filing date of this order, ALL defense

counsel shall file under seal, and serve on plaintiff, all available transcripts of any audio

recordings that have already been submitted to the court; any transcripts submitted and served

pursuant to this order shall be specifically identified in an accompanying separate statement filed

under seal with the court, and served on plaintiff.

      4. Failure of any counsel, without adequate explanation, to provide both the court

and plaintiff with a transcript of any audio recording submitted in this case may result in the

imposition of sanctions.

      SO ORDERED.

DATED: July 13, 2012

_____
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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