

THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

OSCAR ARREOLA,) CIVIL NO. 2:08-00805 JMS
)
Plaintiff,) ORDER REQUIRING DEFENDANTS
) TO RESPOND TO PLAINTIFF’S
vs.) “MOTION: TO ORDER WARDEN
) BOBBY PHILLIPS TO REMEDIAL []
G. DUDLEY et al.,) ACCESS TO AN ADEQUATE LAW
) LIBRARY IN THE MAIN LAW
Defendants.) LIBRARY BUILDING”
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**ORDER REQUIRING DEFENDANTS TO RESPOND TO PLAINTIFF’S
“MOTION: TO ORDER WARDEN BOBBY PHILLIPS TO REMEDIAL []
ACCESS TO AN ADEQUATE LAW LIBRARY IN THE MAIN LAW
LIBRARY BUILDING”**

On September 16, 2010, pro se prisoner Plaintiff Oscar Arreola (“Plaintiff”) filed a motion requesting an order requiring Warden Bobby Phillips to give Plaintiff access to the law library. On September 17, 2010, the court responded to the motion by requesting that the prison in which Plaintiff is currently housed, *i.e.*, the Tallahatchie Correctional Facility, 415 U.S. Highway 49 North, Tutwiler, Mississippi 38963 (“Tallahatchie Prison”), provide Plaintiff access to the library for the purpose of responding to Defendants’ Motion for Summary Judgment.

Plaintiff's Opposition to Defendants' Motion for Summary Judgment

is currently due by October 22, 2010. On October 7, 2010, Plaintiff filed a document entitled "Motion: to Order Warden Bobby Phillips to Remedial [] Access to an Adequate Law Library in the Main Law Library Building." Plaintiff asserts that he has been given access to an inmate cell that has been converted into a law library inside the administrative segregation unit where he is housed.

Plaintiff asserts that this "library" is inadequate because (1) there are no chairs or table; (2) no library staff is provided to assist him, (3) numerous books are missing and the books available have pages torn out, (4) Plaintiff must fill out an inmate request to receive cases, which takes days, and (5) Plaintiff is given less than two hours per week at this make-shift library. Plaintiff therefore asserts that he cannot file a proper opposition to Defendants' Motion for Summary Judgment until he is given access to an adequate law library.

The court ORDERS Defendants to investigate Plaintiff's assertions and respond to his Motion by November 1, 2010 by explaining Plaintiff's access to a law library at Tallahatchie Prison. Defendants shall provide affidavits from individuals with personal knowledge regarding, among other things, (1) the amount of time Plaintiff is allowed access to the library; (2) the books made

available in the library that Plaintiff has access to; (3) whether any books in that library have been defaced; (4) the set-up of the library (chairs, tables, etc.); and (5) the inmate-request process for materials in the main libraries, including the time it takes for requests to be fulfilled, the dates and requests Plaintiff has made for case law and library access, the date those requests were responded to, and the content of those responses.

Defendants need not respond, however, to Plaintiff's complaint that he is not given access to trained library personnel, *see Keenan v. Hall*, 83 F.3d 1083, 1093 (9th Cir. 1996) (stating that "[i]nmates have a constitutional right to *either* assistance of a lawyer, or access to a law library" (emphasis added)), and this Order should not be construed as ordering either Defendants or Tallahatchie Prison to provide Plaintiff access to a law library. Plaintiff's claims in this action are limited to those asserted in his Complaint; this action does not include any claims Plaintiff may assert against Tallahatchie Prison for lack of access to the courts.

The court further VACATES the current briefing schedule on

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Defendants' Motion for Summary Judgment. After the court reviews Defendants' response to this Order, the court will set a new briefing schedule.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 12, 2010.



/s/ J. Michael Seabright

J. Michael Seabright

United States District Judge

Arreola v. Dudley et al., Civ. No. 2:08-00805 JMS, Order Requiring Defendants to Respond to Plaintiff's "Motion: to Order Warden Bobby Phillips to Remedial [] Access to an Adequate Law Library in the Main Law Library Building"