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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ANTHONY R. TURNER,  
Plaintiff,  
v.  
WARDEN SALINAS, et al.,  
Defendants.

No. 2:10-cv-01848-MCE-KJN P

**ORDER**

This Court previously issued a Writ of Habeas Corpus Ad Testificandum, ECF No. 142, for Gary Allen, inmate #AK0444, to appear via by telephone as a witness at the trial in this matter set for February 24, 2014. See ECF No. 140. Since the filing of that Writ, Plaintiff notified the Court that "Gary Allen (CDCR # AK 0444), who is listed as a trial witness for Plaintiff, has been released on parole from California Men's Colony. Accordingly, the Order and Writ of Habeas Corpus Ad Testificandum issued by the Court . . . to secure Mr. Allen's testimony is no longer necessary and may be vacated." Pl.'s Status Report, Jan. 29, 2014, ECF No. 144. Therefore, the Amended Order and Writ of Habeas Corpus Ad Testificandum, ECF No. 142, that ordered the custodian at California Men's Colony to produce Gary Allen, inmate #AK0444, to appear by telephonic-conferencing on February 24, 2014 is VACATED.

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1 In addition, in his January 21, 2014 Status Report, ECF No. 143, Plaintiff reported  
2 that witness Ricky Tappin, inmate #AR3660, may be transferred to a more permanent  
3 location in the near future. This Court's January 16, 2014 Amended Order and Writ of  
4 Habeas Corpus Ad Testificandum ordered that the custodian of Ricky Tappin at Wasco  
5 State Prison notify the Court of any change in custody of Ricky Tappin and ordered that  
6 the custodian provide the new custodian with a copy of the Writ. See ECF No. 141. As  
7 such, the Writ follows Ricky Tappin should he be moved to another institution.

8 Plaintiff further reported that Wasco State Prison "indicated that telephonic  
9 conferencing would be problematic because the facility is a reception center and not  
10 equipped or staffed for phone hearings. Instead, [Wasco State Prison] preferred an order  
11 for Mr. Tappin's personal appearance to testify [] at trial." ECF No. 143. Plaintiff also  
12 indicated that "[i]n the event that Mr. Tappin is not transferred, [Wasco State Prison]  
13 stated that an order for Mr. Tappin's personal appearance could issue as late as  
14 February 4, 2014 and still allow sufficient time for transfer to Sacramento should his  
15 personal appearance be necessary." Id. The Court is not in receipt of either a motion  
16 from Wasco State Prison or an ex parte application from Plaintiff for an amended Writ of  
17 Habeas Corpus Ad Testificandum ordering Ricky Tappin's personal appearance at trial.  
18 The Court will only address such a request upon receipt of motion or ex parte application  
19 for an Amended Order and Writ regarding inmate witness Ricky Tappin.<sup>1</sup>

20 Finally, Plaintiff reported the days and times that he reserved and confirmed the  
21 availability of the necessary video conferencing and telephonic conferencing equipment  
22 at each institution for each planned inmate witness. See ECF No. 143. Plaintiff is  
23 ORDERED to file an Amended Status Report by 4:00 PM on Monday, February 17,  
24 2014 confirming the dates and times for each witness/institution.<sup>2</sup>

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25 <sup>1</sup>This Court's previous Orders and Writs regarding inmate witnesses Ricky Tappin, inmate  
26 #AR3660, and Jacob Elijah Fleenor, inmate #AN7324, remain in effect and are not modified by this Order.  
See ECF Nos. 136, 140, 141.

27 <sup>2</sup>As outlined in this Court's previous orders, ECF Nos. 134, 140, while the Court issued a Writ for  
28 Jacob Elijah Fleenor to appear via videoconference and an Amended Writ for Ricky Tappin to appear via  
telephonic-conferencing, Plaintiff is responsible for ensuring the attendance of these inmate witnesses by

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The Amended Order and Writ of Habeas Corpus Ad Testificandum, ECF No.  
3 142, for inmate Gary Allen, inmate #AK0444, issued by this Court on Jan. 16, 2014 is  
4 VACATED;

5 2. The Clerk of the Court shall send a courtesy copy of this Order by fax to the  
6 litigation coordinator of California Men's Colony at (805)-547-7791. The Clerk of the  
7 Court is also directed to serve by mail three (3) certified copies on the Warden of  
8 California Men's Colony;

9 3. Plaintiff is ORDERED to file an Amended Status Report by 4:00 PM on  
10 Monday, February 17, 2014.

11 IT IS SO ORDERED.

12 Dated: January 30, 2014

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MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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coordinating with prison officials and the Court Clerk to ensure the availability of the necessary telephonic and audio-visual equipment on the requested dates. Further, the parties are advised that this Order does not alter any of the deadlines laid out in the Court's December 31, 2013 Final Pretrial Order, including the February 3, 2014 filing deadline for reserving and arranging orientation for audio/visual equipment. See Final Pretrial Order, Dec. 31, 2013, ECF No. 133.