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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**

Plaintiff Anthony Turner is a state prisoner, proceeding through counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. This action is set for trial on February 24, 2014 at 9:00 AM. On January 16, 2014, this Court issued an amended writ of habeas corpus ad testificandum directing the Warden of Wasco State Prison (“Warden”) to produce inmate witness Ricky Tappin, #AR3660, to testify at trial by telephonic-conferencing on February 24, 2014, at 9:00 AM and from day to day until completion of the proceedings or as ordered by the Court. See Amended Order and Writ, Jan. 16, 2014, ECF No. 141.<sup>1</sup>

<sup>1</sup> While the Court issued a Writ for 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 coordinating with prison officials and the Court Clerk. Further, as required by this Court’s January 31, 2014 Order, ECF No. 145, Plaintiff is also required to file an Amended Status Report regarding these inmate witnesses. Plaintiff is required to file this Amended Status Report by 4:00 PM on Tuesday, February 18, 2014, not by Monday, February 17, 2014, as originally required. See ECF Nos. 143,145.

1           On January 21, 2014, Plaintiff's counsel filed a status report. See ECF No. 143.  
2 Plaintiff's counsel stated that the litigation coordinator at Wasco, Mr. Robert Daniel,  
3 indicated to Plaintiff's counsel that telephonic-conferencing would be problematic  
4 because the facility is a reception center and not equipped or staffed for phone hearings.  
5 Id. Mr. Daniel informed Plaintiff's counsel that he preferred an order for inmate Tappin's  
6 personal appearance to testify at court. Id. Mr. Daniel also stated that inmates at  
7 Wasco normally stay for 90 to 120 days before being transferred to a more permanent  
8 location and that inmate Tappin had been at Wasco for approximately 120 days, thus  
9 making it likely that he will be transferred in the near future. Id. In the event inmate  
10 Tappin is not transferred, Mr. Daniel stated that an order for Mr. Tappin's personal  
11 appearance could issue as late as February 4, 2014, and still allow sufficient time for his  
12 transfer to Sacramento to appear at the February 24, 2014 trial.<sup>2</sup> Id.

13           While the Court understands that having an inmate incarcerated at Wasco State  
14 Prison appear telephonically may be problematic for the reasons given by Mr. Daniel,  
15 transferring an inmate to Sacramento to testify briefly is costly and logistically more  
16 complicated. For this reason, as indicated in this Court's January 16, 2014, Amended  
17 Order and Writ, ECF No. 141, the Warden is directed to make inmate Tappin available  
18 by telephonic-conferencing at the time indicated in that Writ. If the Warden anticipates  
19 problems following this Court's Order requiring that it produce inmate Ricky Tappin to  
20 testify at trial by telephonic-conferencing, the Warden or his representative is ordered to  
21 advise Plaintiff's counsel as soon as they become aware of the problem and no later  
22 than Friday, February 14, 2014. In addition, the Warden or his representative is ordered  
23 to notify the Court of any change in Tappin's custody, to provide any new custodian with  
24 a copy of this Court's January 16, 2014, Order and Writ, and to immediately inform  
25 Plaintiff's counsel of that change as well.

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26           <sup>2</sup>As noted in this Court's January 31, 2014 Order, ECF No. 145, the Court is not in receipt of either  
27 a motion from Wasco State Prison or an ex parte application from Plaintiff for an amended Writ of Habeas  
28 Corpus Ad Testificandum ordering Ricky Tappin's personal appearance at trial. The Court will only  
address such a request upon receipt of motion or ex parte application for an Amended Order and Writ  
regarding inmate witness Ricky Tappin. See ECF No. 145.

1           Accordingly, IT IS HEREBY ORDERED that:

2           1. The Clerk of the Court is directed to serve by mail three (3) certified copies of  
3 this Order on the Warden of Wasco State Prison, 701 Scofield Avenue, P.O. Box 8800,  
4 Wasco, California, 93280-8800.

5           2. The Clerk of the Court is further directed to send a courtesy copy of this order  
6 by fax to the litigation coordinator at Wasco State Prison at (661)-758-7093.

7           3. The Warden of Wasco State Prison is ORDERED to advise Plaintiff's counsel  
8 as soon as possible, but no later than February 14, 2014, if the Warden anticipates  
9 problems following this Court's Order, ECF No. 141, requiring that Wasco State Prison  
10 produce inmate Ricky Tappin, #AR3660, to testify at trial by telephonic-conferencing.

11           4. The Warden of Wasco State Prison is further ORDERED to advise both  
12 Plaintiff's counsel and the Court of any change in custody of inmate Ricky Tappin,  
13 #AR3660, prior to the time of trial. Further, the Warden of Wasco State Prison is  
14 ORDERED to provide any new custodian with a copy of this Court's January 16, 2014  
15 Order and Writ as well.

16           5. Plaintiff is ORDERED to file an Amended Status Report by 4:00 PM on  
17 Tuesday, February 18, 2014, not by Monday, February 17, 2014, as originally required.

18           IT IS SO ORDERED.

19           Dated: February 5, 2014

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