

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 JOHN DUNN,

12 Petitioner,

13 v.

14 GARY SWARTHOUT, et al.,

15 Respondents.  
16

No. 2:11-cv-2731 JAM GGH P

ORDER

17 On September 16, 2013, respondents filed a request for reconsideration of the magistrate  
18 judge's order<sup>1</sup> filed August 29, 2013, granting an evidentiary hearing in regard to the claim of due  
19 process violation of petitioner's right to call witnesses at his disciplinary hearing. Pursuant to  
20 E.D. Local Rule 303(f), a magistrate judge's orders shall be upheld unless "clearly erroneous or  
21 contrary to law." Id. Upon review of the entire file, the court finds that it does not appear that the  
22 magistrate judge's ruling was clearly erroneous or contrary to law. An evidentiary hearing is  
23 warranted based on the superior court's failure to consider and reject petitioner's declaration  
24 regarding his request for a witness at his disciplinary hearing.

25 Therefore, IT IS HEREBY ORDERED that, upon reconsideration, the order of the  
26 magistrate judge filed August 29, 2013, is affirmed.

27 \_\_\_\_\_  
28 <sup>1</sup> That opinion also included findings and recommendations which recommended that other  
claims be denied. (ECF No. 37.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATED: October 23, 2013

/s/ John A. Mendez  
UNITED STATES DISTRICT COURT JUDGE