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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES CATO,
Plaintiff,
v.
M. DARST, et al.,
Defendants.

No. 2: 14-cv-0959 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. This action is set for an evidentiary hearing before the undersigned on November 9, 2015 regarding the issue of plaintiff’s exhaustion of administrative remedies. On October 1, 2015, the undersigned issued a writ of ad testificandum for plaintiff to personally appear at the hearing. Plaintiff is currently housed at the California Substance Abuse Treatment Facility (“CSATF”).


On October 16, 2015, plaintiff filed a motion requesting that he be allowed to appear at the evidentiary hearing telephonically. If appearing telephonically is not possible, plaintiff requests that the court order the California Department of Corrections and Rehabilitation (“CDCR”) to immediately return him to the CSATF after the evidentiary hearing. The grounds of plaintiff’s request are that he is litigating another civil rights action in the Fresno Division of the United States District Court for the Eastern District of California. Plaintiff alleges that his other

1 action is in the summary judgment motion stage. Plaintiff alleges that his ability to litigate the
2 summary judgment motion will be negatively impacted if he is physically brought to Sacramento
3 to attend the evidentiary hearing.

4 Plaintiff is required to be physically present at the evidentiary hearing. In addition, the
5 undersigned has no authority to order CDCR to immediately return plaintiff to the CSATF. For
6 these reasons, plaintiff's request to appear telephonically or for an order directing CDCR to
7 immediately return him to CSATF is denied. If plaintiff requires additional time to prepare his
8 summary judgment pleadings, he may file a motion for an extension of time with the district court
9 in Fresno.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to appear telephonically
11 or for an order for his immediate return to CSATF (ECF No. 52) is denied.

12 Dated: October 22, 2015

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15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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