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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION
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10 Jermaine Padilla,
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12 Plaintiff,

13 v.

14 Jeffrey Beard, in his individual capacity
and official capacity as Secretary for the
California Dept. of Corrections and
15 Rehabilitation, Michael Stainer, in his
individual capacity and official capacity as
16 Director of Adult Institutions for California
Dept. of Corrections and Rehabilitation,
17 Connie Gipson, in her individual capacity,
Dave Davies, in his official capacity as
18 Acting Warden of California State Prison
Corcoran, Ernest Wagner, M.D., in his
19 individual capacity, M. Godina, M. Drew,
20 R. Pruneda, R. Martinez, J. Acevedo, C.
Garcia, E. Silva, and Does 1-10, in their
individual capacities,

21 Defendants.
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Case No. 2:14-cv-01118-KJM-CKD

**PLAINTIFF'S APPLICATION &
PROPOSED ORDER FOR
MODIFICATION OF DECEMBER 10,
2015 ORDER**

Judge: Hon. Carolyn K. Delaney

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Plaintiff hereby requests a modification of the December 10, 2015 Order issued by the Court concerning Plaintiff's motion to terminate his deposition and Defendants' motion to compel the deposition. The Court ordered that Plaintiff's further deposition is limited to three hours and "shall be conducted at the federal courthouse, on a date coordinated with the court's courtroom deputy, so as to allow court supervision of said deposition." 12/10/15 Order at 1:24-26. Plaintiff does not seek modification of the order granting his further deposition nor of court supervision. However, because of the substantial burden and hardship to Plaintiff in complying with the order as issued, Plaintiff seeks a modification to allow the Court to supervise his further deposition by videoconference.

On December 10, 2015, following the Court's order, Defendants' counsel contacted Plaintiff's counsel by e-mail and requested dates during the last week of December or first week of January for Plaintiff's deposition. Declaration of Lori Rifkin in Support of Plaintiff's Application for Modification ("Rifkin Decl.") at ¶ 2 & Ex. A.

Plaintiff lives in Ventura County, receives social security as his sole means of income, has no means of transportation, and is currently still under Post-Release Community Supervision which limits his ability to travel outside Ventura County. Rifkin Decl. ¶ 3. He currently resides at a sober living home where he receives daily medication and assistance. *Id.* Travel, which would also necessitate lodging, to the federal courthouse in Sacramento for the three-hour deposition would therefore impose disproportionate hardship on Plaintiff. Plaintiff's counsel responded to Defendants' e-mail on December 11, 2015 proposing that Plaintiff's deposition be videoconferenced so that Plaintiff and his counsel can be located in Ventura County, Defendants' counsel can be located either in Sacramento or Ventura County at their choosing, and the Court can supervise the deposition by videoconference from the Sacramento courthouse. *Id.* ¶ 4 & Ex. B. Plaintiff's counsel stated that such deposition could be completed January 6 or 7, per the

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ORDER

Good cause appearing, Plaintiff's application to modify this Court's December 10, 2015 Order is granted. The Order is hereby modified to permit Plaintiff to appear for his further deposition in Ventura County. The parties shall arrange for the availability of videoconferencing, should Court supervision be required.

IT IS SO ORDERED.

Dated: December 30, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE