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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PEDRO MIRAMONTES,
Plaintiff,
v.
L. GOWER, et al.,
Defendants.

No. 2:15-cv-1544 JAM CKD P

ORDER

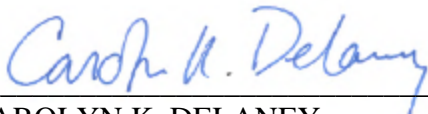
Defendant Herrera has filed a motion asking that the court hold an evidentiary hearing with respect to the argument raised in his motion for summary judgment that plaintiff failed to exhaust administrative remedies prior to filing suit. Good cause appearing, IT IS HEREBY ORDERED that:

1. Defendant Herrera’s motion for an evidentiary hearing (ECF No. 29) is granted.
2. An evidentiary hearing will be held before the undersigned on January 9, 2017 at 9:00 a.m. A writ of habeas corpus ad testificandum will issue for plaintiff’s appearance at the hearing.
3. The issue to be addressed at the hearing will be whether plaintiff was threatened with retaliation for further use of the inmate grievance process and whether that stopped plaintiff from filing a grievance concerning the actions of defendant Herrera which form the basis of plaintiff’s remaining First Amendment claim. It is plaintiff’s burden to produce evidence indicating he was threatened with retaliation and that the threats stopped plaintiff from filing a grievance.

1 4. Within 21 days, plaintiff shall serve any proposed exhibits on defendant. If plaintiff
2 has any exhibits, he shall use numbers to identify them. Defendant shall serve his exhibits upon
3 plaintiff within 14 days after receiving plaintiff's. Defendant shall use letters to identify his
4 exhibits. On the day of the hearing, the parties shall bring three copies of their exhibits. Motions
5 in limine, if any, will be heard the day of the hearing.

6 5. If either party wishes to call a witness other than plaintiff or defendant, the party shall
7 inform the court within 21 days of this Order of the name of the witness and the purpose of
8 his/her testimony. If the proposed witness is an inmate, the party must provide his/her California
9 Department of Corrections and Rehabilitation inmate number, his/her location and indicate
10 whether the inmate agrees to testify voluntarily.

11 Dated: October 21, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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