

1 the All Writs Act to plaintiff's concerns regarding access to his legal property. ECF No. 120. On
2 February 19, 2019, defendant filed a supplemental brief as ordered. ECF No. 131. On February
3 26, 2019, the trial date was continued from April 1, 2019 to January 13, 2020. ECF No. 134.
4 Because the trial was postponed by over nine months, the court concluded, independent of
5 defendant's supplemental brief, that plaintiff was not entitled to relief by way of the All Writs
6 Act. *See* ECF No. 147 ("Plaintiff may make use of the prison's internal administrative grievance
7 process to resolve his requests concerning access to his legal property."). Meanwhile, plaintiff
8 filed a "Motion for Extension of Time" to respond to defendant's supplemental brief (ECF No.
9 138) followed by a "Motion for Ruling" on that request (ECF No. 151) and a supportive
10 declaration (ECF No. 145). Because the court did not order plaintiff to respond to defendant's
11 supplemental brief, there was no deadline to extend. Therefore, plaintiff's request for an
12 extension of time (ECF No. 138) is denied and the Clerk of the Court shall terminate ECF No.
13 151 (the Motion for Ruling).

14 Also, in response to defendant's supplemental brief, plaintiff filed a "Motion for Formal
15 Hearing in re Sanctions and Declaration" (ECF No. 137) and a "Motion for Sanctions and for
16 Formal Hearing" (ECF No. 139). In these requests, plaintiff argues that defense counsel
17 submitted false declarations with the supplemental brief. Specifically, plaintiff speculates that
18 defense counsel may have "encouraged" correctional lieutenant Randolph to perjure himself "to
19 affect the outcome" of this case. ECF No. 139 at 3. Plaintiff requests the opportunity to present
20 evidence at a hearing showing that the declaration is false. *Id.* He also requests that defense
21 counsel be sanctioned. *Id.* at 4. Plaintiff's accusations against defense counsel are entirely
22 speculative. Accordingly, the motions for sanctions and a hearing (ECF Nos. 137 & 139) are
23 denied.

24 Next, the court turns to plaintiff's two "Motions for Orders." ECF Nos. 144 & 148. In
25 the March 25, 2019 "Motion for Order," plaintiff renews his request for the court to grant him
26 relief pursuant to the All Writs Act. ECF No. 144. He claims he was denied receipt of a package
27 containing various supplies he needs for trial. He argues that a court order is his only available
28 relief because his use of the prison's grievance process has been placed on restriction. *Id.* at 10-

1 12. Nevertheless, trial is still another six months away. Plaintiff has ample time to use the
2 prison's internal procedures to prepare for and obtain what he needs for trial. At this time, a court
3 order is not "necessary" for the proper administration of justice, as required by the All Writs Act.
4 *See* 28 U.S.C. § 1651(a). In the April 8, 2019 "Motion for Order," plaintiff seeks a court order
5 directing the warden to reverse a finding of guilt on a rule violation report. ECF No. 148. Such
6 relief is not within the scope of this action, in which plaintiff seeks damages for an alleged use of
7 excessive force. *See* ECF No. 106 (Pretrial Order). Plaintiff may use the prison's internal
8 administrative processes or file a separate civil action to obtain relief on the unrelated matter he
9 raises. For these reasons, plaintiff's "Motions for Orders," which essentially seek injunctive
10 relief, must be denied.

11 Accordingly, it is ORDERED that:

- 12 1. Plaintiff's "Motion for Order in re Ability to Follow Pretrial Order," "Motion for
13 Order to Enable Plaintiff to Submit Exhibits as Order Directs," and "Motion for Order
14 to Enable Plaintiff to Procure Street Cloth[e]s for Trial," (ECF Nos. 119, 121, 140) are
15 denied without prejudice as moot.
- 16 2. Plaintiff's "Motion for Extension of Time" to respond to defendant's supplemental
17 brief (ECF No. 138) is denied and the Clerk of the Court shall terminate ECF No. 151
18 ("Motion for Ruling").
- 19 3. Plaintiff's "Motion for Formal Hearing in re Sanctions and Declaration" (ECF No.
20 137) and "Motion for Sanctions and for Formal Hearing" (ECF No. 139) are denied.

21 Further, it is RECOMMENDED that plaintiff's "Motions for Order" (ECF Nos. 144 &
22 148) be denied without prejudice.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
25 after being served with these findings and recommendations, any party may file written
26 objections with the court and serve a copy on all parties. Such a document should be captioned
27 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections

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1 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
2 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

3 DATED: June 27, 2019.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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