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 6 UNITED STATES DISTRICT COURT
 7 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO BRANCH
 8

9 JAMES GODOY,
 10 Plaintiff,
 11 v.
 12 T. WADSWORTH, et al.
 13 Defendants.

Case No. C 05-2913 NJV

**AMENDED APPLICATION FOR ORDER
 AND ORDER OF ISSUANCE OF & WRIT
 OF HABEAS CORPUS AND
 TESTIFICANDUM TO TRANSPORT
 INMATES**

TRIAL DATE: January 19, 2010
 TIME: 9:00 a.m.
 COURTROOM: 2, 17th Floor
 JUDGE: THE HONORABLE NANDOR J.
 VADAS

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 17 **I.**
 18 **STATEMENT OF RELEVANCE**

19 Each of the below listed inmates were personally present during the December 21, 2004 incident
 20 involving Mr. James Godoy and the various correctional staff at Pelican Bay State Prison. Each
 21 inmate heard, saw or felt different aspects of the incident, including the following aspects of it:
 22

- 23 A. The lack of a verbal altercation between Mr. Godoy and Mr. Wadsworth.
 24 B. The sound and sight of Mr. Wadsworth slapping down Mr. Godoy's food tray.
 25

1 C. The ensuing process of Mr. Wadsworth striking Mr. Godoy with his baton [some of the
2 inmates saw this, some didn't]

3 D. The shooting of Mr. Godoy

4 E. The absence of a general melee in the cafeteria area

5 F. Post incident occurrences of handling Mr. Godoy

6
7 The statements of each of the below listed inmates were set out in a transcription prepared by
8 Plaintiff's counsel's office, through a San Francisco based tape transcriptionist by the name of
9 Paul Garton of the Transcript Coop. These transcriptions were previously produced Godoy's
10 counsel in response to defendant's last discovery requests, approximately one year ago.

11
12 The tape cassettes from which the transcriptions are from were produced by Pelican Bay State
13 Prison in response to plaintiff's subpoena. These cassette tapes were deemed confidential as they
14 are interviews by the Special Services Unit [SSU] and are deemed by CDCR as confidential.
15 Accordingly excerpts of those tape transcriptions are not being appended here, but are referenced
16 herein as forming a reference for defendants to understand what the below listed inmates will
17 testify about during the trial.

18
19 As stated in email correspondence to defendants' counsel, the relevant information of what each
20 inmate will testify about can be found within the first 4-7 pages of each of the interview
21 transcripts.

1 **II.**
2 **INMATE WITNESSES FOR WHICH A WRIT OF HABEAS CORPUS AD**
3 **TESTIFANDUM IS REQUESTED**

4 Plaintiff's counsel has examined the transcripts of the 14 inmate witnesses interviewed by SSU,
5 and has determined that the following inmates have relevant first hand knowledge of the
6 different aspects of what occurred to Mr. Godoy, as summarized above:

7
8 Inmate Art Gonzales K96656;

9 **III.**
10 **CONCLUSION**

11 Plaintiff accordingly requests that the Court issue a writ of habeas corpus ad testificandum of
12 each of the above inmate witnesses.

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14
15 //s// Herman Franck
16 Herman Franck, Esq.
17 Attorney for Plaintiff James Godoy

Dated: December 29, 2009

ORDER

ACCORDINGLY, IT IS ORDERED that:

1. A Writ of Habeas Corpus and Testificandum issue under the seal of this court, commanding California State Prison Sacramento, Represa, California and the California Department of Corrections and Rehabilitation to produce the following inmates:

1. Art Gonzalez, K96656;

to testify in the United States District Court for the Northern District of California at the time and place above and from day to day until completion of court proceedings or as ordered by the Court, and thereafter to return the inmates to the above institution.

2. The custodian is ordered to notify the Court of any change in custody of this inmate and is ordered to provide the new custodian with a copy of this writ.

1 **WRIT OF HABEAS CORPUS AS TESTIFICANDUM**

2 To: The Warden of California State Prison Sacramento, Represa, California
3 Prison Road Represa, California 95671

4 YOU ARE COMMANDED to produce the following inmates:

- 5 1. Art Gonzalez, K96656;

6
7 to testify in the United States District Court for the Northern District of California at the time and
8 place above, from day to day until completion of court proceedings or as ordered by the Court,
9 and thereafter to return the inmates to the above institution.

10 FURTHER, you have been ordered to notify the Court of any change in custody of these
11 inmates and are ordered to provide the new custodian with a copy of this writ.

12 IT IS ORDERED.

13 DATED: 1/5/2010

