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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

7 OTIS THOMAS,) No. C 06-3581 MMC (PR)
8)
9 Plaintiff,) **ORDER DENYING PLAINTIFF'S**
10 v.) **REQUEST FOR COURT TO OBTAIN**
11 M.S. EVANS, Warden,) **AND REVIEW TRANSCRIPT OF**
12 Defendants.) **PLAINTIFF'S DEPOSITION; SETTING**
) **NEW BRIEFING SCHEDULE ON**
) **PENDING MOTIONS FOR SUMMARY**
) **JUDGMENT**
) **(Docket Nos. 47 & 53)**

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14 On June 5, 2006, plaintiff, a California prisoner currently incarcerated at Centinela
15 State Prison and proceeding pro se, filed the above-titled civil rights action under 42 U.S.C.
16 § 1983, alleging the violation of his constitutional rights by prison officials at Salinas Valley
17 State Prison. Defendants have filed two dispositive motions: (1) on April 11, 2007,
18 defendants filed a motion for summary judgment on plaintiff's First Amendment and Equal
19 Protection claims, and (2) on August 7, 2008, defendants filed a motion for summary
20 judgment on plaintiff's Eighth Amendment claim. Plaintiff has filed opposition to the first
21 motion for summary judgment; per order dated May 9, 2008, plaintiff was required to file
22 opposition to the second motion for summary judgment within thirty days of the date such
23 motion was filed.

24 Now pending before the Court is plaintiff's request, filed August 18, 2008, that the
25 Court obtain and review the deposition transcript relied upon by defendants in support of
26 their second motion for summary judgment. Specifically, plaintiff states that defendants
27 have misrepresented what plaintiff said at his deposition, by attaching to said motion only
28 certain portions of the deposition transcript and exhibits. In support of his assertion, plaintiff

1 refers to specific pages of the deposition transcript and specific exhibits that he maintains
2 defendants intentionally omitted. In response, defendants state they have attached to their
3 second motion for summary judgment only those portions of the deposition transcript
4 relevant to said motion. Further, defendants state that although lodging the deposition
5 transcript with the court is usually done at trial, they have no objection to doing so at this
6 time if the Court so requests, but they object to providing plaintiff with a copy of the
7 transcript at defendants' expense. Plaintiff responds that he is not requesting a copy of the
8 transcript for himself, but is asking only that the Court obtain and read it.


9 Plaintiff's request is hereby DENIED. As plaintiff makes clear, he objects to the fact
10 that defendants have not submitted certain portions of the deposition transcript and exhibits
11 in support of their motion for summary judgment. Defendants, however, are not required to
12 submit portions of the deposition transcript or exhibits that are not relevant to their motion.
13 Rather, if plaintiff objects to defendants' characterization of statements made by plaintiff at
14 his deposition, or exhibits submitted by plaintiff at his deposition, and such objections are
15 relevant to plaintiff's opposition to defendants' motion for summary judgment, plaintiff must
16 raise his objections in his opposition and attach thereto a copy of those portions of the
17 deposition transcript or exhibits upon which he relies.

18 In light of the foregoing, the Court hereby SETS the following briefing schedule.
19 Plaintiff shall file an opposition to defendants' second motion for summary judgment no later
20 than December 31, 2008. Defendants shall file a reply to plaintiff's opposition to both the
21 first and second motions for summary judgment no later than fourteen (14) days after
22 plaintiff's opposition to the second motion for summary judgment is filed.

23 This order terminates Docket Nos. 47 and 53.

24 IT IS SO ORDERED.

25 DATED: October 30, 2008

26 
27 MAXINE M. CHESNEY
28 United States District Judge