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United States District Court  
For the Northern District of California

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

VICTOR GUERRERO,  
Plaintiff,

No. C 13-05671 WHA

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS & REHABILITATION;  
STATE PERSONNEL BOARD; and in  
their official capacities JEFFREY BEARD,  
Secretary of the California Department of  
Corrections and Rehabilitation; SUZANNE  
AMBROSE, Executive Officer of State  
Personnel Board; K. CARROLL,  
Lieutenant; D. SHARP, Sergeant;  
BARBARA LEASHORE, Hearing Officer;  
C. Hester, Lieutenant, V. MAYOL,  
Lieutenant; S. COX, Lieutenant; V.  
MYERS, Sergeant,  
Defendants.

**REQUEST RE  
UPCOMING HEARING**

Both sides are hereby requested to be prepared to discuss the following issues at the May  
1 motion hearing:

- Whether plaintiff's state-law claims are barred by the Eleventh Amendment.  
*Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89 (1984); accord  
*Rohnert Park Citizens to Enforce CEQA v. Cal. DOT*, 2008 U.S. Dist. LEXIS  
41004, at \*5-6 (N.D. Cal. May 20, 2008) (Judge Thelton Henderson). If  
defendants CDCR and/or SPB wish to affirmatively waive Eleventh Amendment  
immunity, counsel for CDCR and/or SPB are requested to submit a sworn

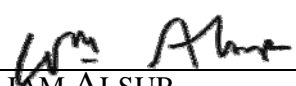
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declaration stating so by **5 P.M. ON WEDNESDAY, APRIL 30.** *Katz v. Regents of the Univ. of Cal.*, 229 F.3d 831, 834 (9th Cir. 2000).

2. Whether *Al-Kidd v. Ashcroft*, 580 F.3d 949, 974 (9th Cir. 2009), *rev'd on other grounds sub nom. Ashcroft v. Al-Kidd*, 131 S. Ct. 2074 (2011), allows plaintiff to give defendants only “fair notice” of his Title VII claim, rather than require him to plead with factual particularity.
3. Whether plaintiff’s substantive due process claim is subsumed by his equal protection claim under *Albright v. Oliver*, 510 U.S. 266, 273 (1994). *See, e.g., Wilkins v. County of Alameda*, 2012 U.S. Dist. LEXIS 91645, at 11–12 (N.D. Cal. June 28, 2012) (Judge Lucy Koh).
4. Whether plaintiff’s Section 1983 claim is barred by the statute of limitations.

**IT IS SO ORDERED.**

Dated: April 29, 2014.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE