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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 TODD ASHKER,

9 Plaintiff,

10 v.

11 MICHAEL C. SAYRE, et al.,

12 Defendants.
13

Case No. 05-cv-03759 CW

**ORDER RE: NOTICE OF NON-
COMPLIANCE**

(Re: Dkt. No. 593)

14 On February 4, 2010, this Court entered an Order for Specific Performance of the 2002
15 Settlement Agreement between the California Department of Corrections and Rehabilitation
16 (CDCR) and Plaintiff. Docket No. 434. The order provided, among other things, that “Plaintiff
17 shall . . . be allowed to exercise with the theraband and theraball in his cell, and this equipment shall
18 be replaced as necessary.” *Id.* at 12.

19 On July 29, 2022, Plaintiff filed a “notice of non-compliance,” stating that he has been
20 without his theraball since arriving at Corcoran State Prison on May 23, 2022, and that Defendants
21 have failed to replace the same. Docket No. 593.

22 On August 12, 2022, Defendants filed a response to Plaintiff’s notice of non-compliance,
23 which Defendants served on Plaintiff, stating that “Plaintiff’s Theraball was returned to him on
24 August 11, 2022.” *See* Docket No. 597 at 1. Defendants contend that, because the theraball has
25 been returned to Plaintiff, and because Plaintiff does not request any other relief in his notice of
26 non-compliance, Defendants’ failure to comply with the Court’s Order for Specific Performance of
27 February 4, 2010, has been corrected and the issue is now moot. *See id.* at 1-3.
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Pursuant to Civil Local Rule 7-3, the deadline to file a reply in support of the notice of non-compliance was August 19, 2022. As of the date of this order, Plaintiff has not filed a reply.

Because the incident of non-compliance discussed in Plaintiff's notice appears to be moot, the Court shall take no action on Plaintiff's filing.

IT IS SO ORDERED.

Dated: August 26, 2022



CLAUDIA WILKEN
United States District Judge