

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

<p><b>MARIO TRUJILLO,</b></p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p><b>FRANCISCO JACQUEZ, et al.,</b></p> <p style="text-align: right;">Defendants.</p>	<p>Case No. C 10-5183 YGR (NJV)</p> <p><b><del>[PROPOSED]</del> ORDER GRANTING PLAINTIFF'S MOTION TO CORRESPOND WITH INMATE MCCOY ON A ONE-TIME BASIS FOR DISCOVERY PURPOSES</b></p>
---	--

Case No. C 10-5183 YGR (NJV)

**~~[PROPOSED]~~ ORDER GRANTING  
PLAINTIFF'S MOTION TO  
CORRESPOND WITH INMATE MCCOY  
ON A ONE-TIME BASIS FOR  
DISCOVERY PURPOSES**

On June 12, 2012, Plaintiff Mario Trujillo, a Pelican Bay State Prison (Pelican Bay) inmate, moved for an order permitting him to correspond in writing with fellow Pelican Bay inmate McCoy (T-69025) on a one-time basis in an effort to secure a declaration from him. (*See* Docket No. 85.) Plaintiff alleges that inmate McCoy was an eyewitness to the excessive force allegedly used against Plaintiff by some of the Defendants in this action on February 16, 2009, and that he needs McCoy's declaration to prosecute his case. (*Id.*) Plaintiff further contends that he had previously requested permission from prison-staff to communicate with this inmate, but his request was denied. (*Id.*)

On March 29, 2013, Judge Gonzalez-Rogers referred this matter to this Court to make findings and recommendations as to why Plaintiff should not be allowed to obtain a declaration from inmate McCoy. (Docket No. 109.) On April 8, 2013, this Court held a telephonic hearing

1 on the matter. During the hearing, Defendants' counsel informed the Court that the Captain in  
2 charge of Plaintiff's housing unit would permit correspondence between the two inmates on a  
3 one-time basis, so long as Plaintiff provides proof that legal discovery is needed in this action.  
4 Plaintiff stated during the hearing that discovery has been permitted in this case and that inmate  
5 McCoy's declaration is needed for the prosecution thereof.

6 Accordingly, after finding good cause, the Court hereby orders that Plaintiff's motion is  
7 GRANTED. Pelican Bay staff shall allow Plaintiff to correspond with inmate McCoy (T-69025)  
8 on a one-time basis in an effort to obtain a declaration from him. In doing so, however, Plaintiff  
9 must follow Pelican Bay's internal procedures for corresponding with another inmate.  
10 Specifically, Plaintiff shall re-submit a "CDCR Form 22" to his assigned counselor accompanied  
11 with a copy of this order. *See* PBSP D.O.M. Supp. § 54010.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: April 15, 2013

  
The Honorable Nandor J. Vadas  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

Case Name:   **M. Trujillo v. Jacquez, et al.**                      No.   **C 10-5183 YGR**  

I hereby certify that on **April 10, 2013**, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**[PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION TO CORRESPOND WITH INMATE MCCOY ON A ONE-TIME BASIS FOR DISCOVERY PURPOSES**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On **April 10, 2013**, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Mario Trujillo (F-99682)  
Pelican Bay State Prison  
P.O. Box 7000  
Crescent City, CA 95531-7000  
Pro Se

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **April 10, 2013**, at San Francisco, California.

\_\_\_\_\_  
M. Luna  
Declarant

\_\_\_\_\_  
*/s/ M. Luna*  
Signature