

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MICHAEL C. TIERNEY,)	NO. 1:12-cv-00056 LEK-RLP
#A0201434,)	
)	ORDER DENYING MOTIONS FOR
Plaintiff,)	PRESENCE AT HEARING AND FOR
)	DISCOVERY
vs.)	
)	
LOIS TORIKAWA, et al.,)	
)	
Defendants.)	
_____)	

ORDER DENYING MOTIONS FOR PRESENCE AT HEARING AND FOR DISCOVERY

Plaintiff asks to be present at the February 2, 2013 hearing on Defendants' Motion to Dismiss for Failure to Exhaust. The Prison Litigation Reform Act of 1996 ("PLRA") specifically directs that pretrial proceedings in prisoner actions be conducted by telecommunications technologies that allow the prisoner to stay in the penal institution to the extent practicable. See 42 U.S.C. § 1997e(f). Plaintiff will participate in the hearing by telephone and his request to be physically present at the hearing is DENIED.

Plaintiff also vaguely requests "Discovery." See Mot., ECF #65. He states: "Plaintiff was prevented from filing and has filed a writ of mandamus on this issue." *Id.* Because he attaches a petition for writ of mandamus to the Hawaii Supreme Court to his motion, in which he complains that, on or about April 27, 2012, he was prevented from filing a Step 3 grievance

by another inmate's false statements, the court construes this as Plaintiff's submission of evidence that he was prevented from filing a third-step grievance regarding the issues set forth in this Complaint. See ECF #65-2-65-4. The court will consider these documents when determining Defendants' Motion to Dismiss for Failure to Exhaust, as well as any other arguments or relevant documents Plaintiff submits regarding the exhaustion of his claims prior to the hearing. Plaintiff's vague motion for discovery is DENIED.

Finally, Plaintiff requests permission to call the court. Plaintiff may call the Office of the Clerk during business hours. He may not, however, attempt to personally speak with the district or magistrate judges assigned to his case.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, January 22, 2013.



/S/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States District Judge

Tierney v. Torikawa, et al., 1:12-cv-00056 LEK-RLP; Order Denying Motions for Presence at Hearing and For Discovery; G:\docs\prose attys\Non-disp Ords\DMP\2013\Tierney 12-56 lek bmk (presence at hrg, disc.).wpd