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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ARONDO AUSTIN,

Plaintiff,

v.

D. L. WINETT, et al.,

Defendants.

CASE NO. 1:04-cv-05104-DLB PC

ORDER VACATING AUGUST 25, 2009 ORDER AND WRIT OF HABEAS CORPUS AD TESTIFICANDUM AS TO PLAINTIFF **ARONDO AUSTIN**

(Doc. 114)

ORDER VACATING TRIAL DATE

Plaintiff Arondo Austin (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. The action is currently set for trial before this Court on September 22, 2009. On August 25, 2009, the Court issued an order and Writ of Habeas Corpus ad testificandum to transport Plaintiff, commanding the Warden of California State Prison - Sacramento to produce California prisoner Arondo Austin, CDCR #E-61218 in this Court on September 22, 2009, to testify at trial in this action. The parties attempted settlement, which was ultimately unsuccessful. (Doc. 111.)

On September 11, 2009, Plaintiff filed a motion for extension of time to accept Defendants’ offer of settlement. (Doc. 116.) Because Plaintiff has indicated intent to settle, the Court will vacate its order and writ of habeas corpus ad testificandum as well as the trial date.

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Accordingly, the Court HEREBY ORDERS the following:

- 1) The Court's order and writ of habeas corpus ad testificandum, filed on August 25, 2009, is vacated; and
- 2) the trial date of September 22, 2009 is vacated.

IT IS SO ORDERED.

Dated: September 15, 2009

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE