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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TROAS V. BARNETT,

CASE NO. 1:05-cv-01022-BAM PC

Plaintiff,

ORDER STRIKING CONSENT/DECLINE
FORM AND UNSIGNED MOTION FOR COURT
ORDER (ECF Nos. 203, 206)

v.

MARTIN GAMOBA, ANGEL DURAN,
and MANUEL TORRES,

ORDER DENYING PLAINTIFF'S MOTION
FOR THE COURT TO RESCIND ORDER OF
OCTOBER 26, 2012 (ECF No. 207)

Defendants.

ORDER DIRECTING DEFENDANTS TO FILE
RESPONSE TO PLAINTIFF'S MOTION FOR
THE PRODUCTION OF WITNESSES WITHIN
FIFTEEN DAYS (ECF No. 205)

Plaintiff Troas V. Barnett is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Martin Gamboa, Angel Duran, and Manuel Torres for the use of excessive force in violation of the Eighth Amendment and is currently set for trial on January 22, 2012. On November 21, 2012, Plaintiff filed a form declining the jurisdiction of the Magistrate Judge, a motion for a court order for the production of witnesses, a motion for the Court to rescind the October 26, 2012 order denying admission of the 11-4-03 video and M.R.I. skull series protocol, and an unsigned motion for a court order to produce the M.R.I. of Plaintiff's skull series protocol. (ECF Nos. 203, 205, 206, 207.)

Unsigned documents cannot be considered by the Court, and Plaintiff's motion for a court order to produce the M.R.I is stricken from the record on that ground. Fed. R. Civ. P. 11(a); Local Rule 131(b). Further, Plaintiff is advised that his motion for the M.R.I to be produced at trial, filed September 10, 2012, is pending and as he was advised during the October 11, 2012 hearing, will be

1 addressed during the second phase of the trial. There is no need for Plaintiff to file a duplicate
2 motion.

3 As Plaintiff was advised in the order issued November 2, 2012, he has consented to the
4 jurisdiction of the Magistrate Judge, and his consent can only be withdrawn “for good cause shown
5 on its own motion, or under extraordinary circumstances shown by any party.” Dixon v. Ylst, 990
6 F.2d 478, 480 (9th Cir. 1993). Plaintiff may not decline the jurisdiction of the Magistrate Judge by
7 filing a form declining the jurisdiction of the Magistrate Judge; and the form filed November 21,
8 2012, is stricken from the record.

9 Plaintiff requests the Court to rescind the order issued October 26, 2012, denying the
10 admission of the video and M.R.I. However, no such order has been issued, and therefore, Plaintiff’s
11 motion is DENIED.

12 Finally, at the telephonic conference on October 11, 2012, Defendants were ordered to
13 determine if Plaintiff’s witnesses could be transported to another facility to appear by video
14 conference at trial. Plaintiff has filed a motion requesting the witnesses be ordered to appear at trial.
15 Defendants shall file an opposition or statement of non-opposition to Plaintiff’s motion within fifteen
16 days addressing whether the witnesses can appear by video conference and Plaintiff’s motion. Local
17 Rule 230(l).

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff’s unsigned motion for a court order to produce the M.R.I., filed November
20 21, 2012, is STRICKEN FROM THE RECORD;
- 21 2. Plaintiff’s consent/decline form, filed November 21, 2012, is STRICKEN FROM
22 THE RECORD;
- 23 3. Plaintiff’s motion for the court to rescind the October 26, 2012 order, filed November
24 21, 2012, is DENIED; and

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4. Within fifteen days from the date of service of this order, Defendants shall file an opposition or statement of non-opposition to Plaintiff's motion for the production of witnesses.

IT IS SO ORDERED.

Dated: November 26, 2012

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE