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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

TROAS V. BARNETT,)	Case No.: 1:05-cv-01022-BAM PC
Plaintiff,)	
v.)	ORDER DIRECTING PLAINTIFF TO RESPOND
MARTIN GAMBOA, et al.,)	TO COUNSEL’S MOTION TO WITHDRAW
Defendants.)	WITH A DECLARATION FILED UNDER SEAL
)	(ECF No. 335)
)	
)	ORDER DIRECTING CLERK’S OFFICE TO
)	PROVIDE PLAINTIFF A COPY OF THIS ORDER
)	AND PERMITTING FILING A DOCUMENT
)	UNDER SEAL
)	
)	FOURTEEN-DAY DEADLINE

Plaintiff Troas Barnett (“Plaintiff”) is a state prisoner proceeding in this civil rights action pursuant to 42 U.S.C. § 1983. On April 27, 2015, Angelina Z. Bradley was appointed as volunteer pro bono counsel to represent Plaintiff at trial. (ECF No. 325.) Currently this matter is set for a jury trial on February 23, 2016 at 8:30 a.m., in Courtroom 8 (BAM). (ECF No. 330.)

On September 15, 2015, Plaintiff filed a motion on his own behalf, with a supporting declaration, requesting that the Court discharge Ms. Bradley from her duties as his counsel and “reinstate” his pro se status. (ECF No. 333.) On September 17, 2015, the Court directed counsel to meet with Plaintiff and discuss her continued representation of him, and to file a status report informing the Court whether the representation could continue or whether she would be seeking leave to withdraw as counsel. (ECF No. 334.)

Currently before the Court is counsel’s combined status report and motion to withdraw as counsel of record, filed September 17, 2015. (ECF No. 335.) In her combined status report and

1 motion, counsel explains that she spoke with Plaintiff via telephone on several issues regarding her
2 representation of him. (Id. at 1-2.) At Plaintiff’s request, counsel has moved for withdrawal as counsel
3 of record, stating in support of her motion that the relationship has deteriorated to the point where she
4 can no longer effectively represent Plaintiff, including because of his motion and some disagreements
5 regarding his case. (Id. at 2.) She further believes a conflict of interest exists in light of several
6 disputed allegations Plaintiff made in his motion seeking that she be discharged as counsel of record.
7 (Id.) Nevertheless, in counsel’s opinion, Plaintiff will be ineffective in advocating his own interests at
8 trial, and she argues the Court should consider appointing him another pro bono panel attorney. (Id. at
9 2-3.) She further explains that in discussing this matter with Plaintiff, he expressed an unwillingness to
10 be appointed new counsel, preferring to represent himself. (Id.)

11 The decision to grant withdrawal is within the discretion of the Court and leave “may be
12 granted subject to such appropriate conditions as the Court deems fit.” Courts consider several factors
13 in ruling on a motion to withdraw, including “1) the reasons why withdrawal is sought; 2) the
14 prejudice withdrawal may cause to other litigants; 3) the harm withdrawal might cause to the
15 administration of justice; and 4) the degree to which withdrawal will delay the resolution of the case.”
16 CE Res., Inc. v. Magellan Grp., LLC, No. 2:08-CV-02999MCEKJM, 2009 WL 3367489, at *2 (E.D.
17 Cal. Oct. 14, 2009). In addition, this matter also concerns issues regarding whether the Court should
18 seek new pro bono counsel to represent Plaintiff should it grant counsel’s motion to withdraw.

19 To better evaluate counsel’s motion in this case, the Court requires more information from
20 Plaintiff. Specifically, Plaintiff needs to inform the court (1) whether or not he believes he can
21 effectively advocate for his own interests in this case; (2) if so, the specific reasons and basis for his
22 ability to effectively advocate for his own interests, including for all pre-trial preparations, hearings,
23 motions, and at trial; and (3) whether or not he is open to the Court attempting to locate new counsel
24 to assist him, and the reasons why or why not. To mitigate any potential prejudice to Plaintiff from the
25 need to explain these issues on the record, he shall serve his response to counsel’s motion in a
26 declaration submitted under seal to the Court and served on his counsel. Plaintiff **shall not serve** the
27 declaration on the Defendants or their counsel. Plaintiff shall be granted fourteen (14) days to respond
28 to counsel’s motion with the information requested by the Court and any other information he believes

1 may be of assistance in evaluating counsel's motion.

2 Accordingly, it is HEREBY ORDERED that:

- 3 1. Within fourteen (14) days of service of this order, Plaintiff is ORDERED to file a
4 declaration under seal stating: (a) whether or not he believes he can effectively
5 advocate for his own interests in this case; (b) if so, the specific reasons and basis for
6 his ability to effectively advocate for his own interests, including for all pre-trial
7 preparations, hearings, motions, and at trial; and (c) whether or not he is open to the
8 Court attempting to locate new counsel to assist him, and the reasons why or why not;
- 9 2. Plaintiff shall prominently put in the title of his declaration that it is "Submitted Under
10 Seal," shall provide a copy of this order authorizing sealing with his declaration, and
11 shall state in a prominent matter "Sealed Documents" on the envelope transmitting his
12 declaration, in accordance with Local Rule 141;
- 13 3. Plaintiff shall serve his declaration on his counsel Angelina Z. Bradley, but **shall not**
14 serve or disclose it to Defendants, their counsel, or the general public;
- 15 4. Plaintiff's declaration shall remain under seal until it is ordered unsealed by the Court;
- 16 5. Plaintiff is cautioned that he is still represented by counsel and his correspondence with
17 the Court must be through counsel. The Court has ordered his filing of a declaration as
18 an exceptional circumstance, but any further direct correspondence or filings by him
19 will be stricken; and
- 20 6. The Clerk's Office is DIRECTED to mail Plaintiff a copy of this order at the following
21 address:

22 Troas V. Barnett, E-29521
23 Calipatria State Prison
24 B1-107L
25 P.O. Box 5005
26 Calipatria, CA 92233

26 IT IS SO ORDERED.

27 Dated: September 18, 2015

28 /s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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