

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

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

WHITTIER BUCHANAN,

1:08-cv-01174-AWI-GSA-PC

Plaintiff,

**ORDER RESCHEDULING TRIAL**

v.

CORRECTIONAL OFFICER  
A. SANTOS,

**Jury Trial: December 4, 2012 at 8:30 a.m. in  
Courtroom 2 (AWI)**

Defendant.

\_\_\_\_\_ /

This action, brought pursuant to 42 U.S.C. § 1983, proceeds on the original Complaint filed by plaintiff Whittier Buchanan (“Plaintiff”) on August 11, 2008, against defendant Correctional Officer (C/O) A. Santos (“Defendant”), for excessive force in violation of the Eighth Amendment. (Doc. 1.)<sup>1</sup>

On May 2, 2012, the Court issued a Second Scheduling Order scheduling this case for jury trial on September 25, 2012 before District Judge Anthony W. Ishii. (Doc. 58.) Shortly thereafter,

\_\_\_\_\_

<sup>1</sup>On June 8, 2009, the court dismissed defendants Collins, Yates, Garrison, Duty, Reyes, and McBryde from this action based on Plaintiff’s failure to state any claims upon which relief could be granted against them. (Doc. 15.) On June 8, 2010, the court dismissed defendant Mendoza and the claims against him, based on Plaintiff’s failure to exhaust administrative remedies. (Doc. 44.) As a result of the foregoing, Plaintiff’s claims for retaliation are not at issue in this action.

1 the parties indicated they were willing to participate in a settlement conference. (Docs. 63, 64.) On  
2 July 12, 2012, a settlement conference was held before Magistrate Judge Gary S. Austin. (Doc. 71.)  
3 The parties conferred but did not reach a settlement. (Doc. 71.)

4 On August 6, 2012, a telephonic trial confirmation hearing was held before District Judge  
5 Anthony W. Ishii. (Doc. 78.) The trial date of September 25, 2012 was vacated at the hearing. Id.  
6 On August 14, 2012, the Court issued an order requiring the parties to notify the Court within ten  
7 days whether they would consent to Magistrate Judge jurisdiction in this case. (Doc. 81.) On  
8 August 21, 2012, Defendant consented to Magistrate Judge jurisdiction, and on August 24, 2012,  
9 Plaintiff declined Magistrate Judge jurisdiction. (Docs. 82, 84.) Accordingly, the trial for this action  
10 shall now be rescheduled before District Judge Anthony W. Ishii.

11 Based on the foregoing IT IS HEREBY ORDERED that:

- 12 1. This case is rescheduled for jury trial to commence on **December 4, 2012** at  
13 **8:30 a.m.** in **Courtroom 2** before **District Judge Anthony W. Ishii**; and
- 14 2. An amended pretrial order shall be issued, setting out pretrial deadlines for the  
15 parties.

16 IT IS SO ORDERED.

17 Dated: September 18, 2012

  
CHIEF UNITED STATES DISTRICT JUDGE