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**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

**JUANITA ALLEN,**

**Plaintiff,**

**v.**

**CALIFORNIA DEPARTMENT OF  
CORRECTIONS, et al.,**

**Defendants.**

**1:09-CV-0767 AWI GSA**

**ORDER REFERRING  
PENDING MOTION TO  
DISMISS TO MAGISTRATE  
JUDGE GARY S. AUSTIN**

Plaintiff has filed a wrongful death action concerning her son Carl Smith who died while in the custody of the California Department of Corrections and Rehabilitation. Plaintiff alleges both violations of civil rights pursuant to 42 U.S.C. § 1983 and state law. Defendants have filed a motion to dismiss. The court finds that the pending motion should be referred to Magistrate Judge Gary Austin pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302 for the entry for Findings and Recommendations.

Accordingly, it is HEREBY ORDERED that the pending motion to dismiss is REFERRED to Magistrate Judge Gary Austin. The parties are advised that the motion may be re-set for oral argument at Magistrate Judge Austin’s discretion.

IT IS SO ORDERED.

**Dated: November 12, 2009**

**/s/ Anthony W. Ishii**  
**CHIEF UNITED STATES DISTRICT JUDGE**