

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

VIRGIL E. HOLT,  
Plaintiff,  
v.  
R. NICHOLAS, et al.,  
Defendants.

) Case No.: 1:09-cv-00800-AWI-SAB (PC)  
) ORDER REQUIRING PARTIES TO NOTIFY  
) COURT WHETHER THEY WILL CONSENT TO  
) MAGISTRATE JUDGE JURISDICTION WITHIN  
) FOURTEEN DAYS  
) ORDER DIRECTING CLERK OF COURT TO  
) SEND CONSENT FORMS  
)

Plaintiff Virgil E. Holt is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Following resolution of Defendants' motion for summary judgment, against Defendants Nicholas, Holguin, Ortega, Machado, and Juden on Plaintiff's claim of excessive force, failure to intervene, and deliberate indifference to a serious medical claim in violation of the Eighth Amendment, and against Defendant Velasco on Plaintiff's claim of deliberate indifference to a serious medical need in violation of the Eighth Amendment. This action is ready to be set for jury trial.

This Court's Fresno Division carries the heaviest U.S. District Judge caseload in the nation. Although this Court uses its best efforts to resolve civil cases timely, this Court is unable to meet the parties' needs and expectations. With multiple trials set on the same date, cases trail until the assigned District Judge becomes available. As required by law, this Court gives criminal cases priority over civil trials and other matters. This Court must proceed with criminal trials even if a civil action is older or its trial was set earlier. Continuances of civil trials under these circumstances will no longer be entertained, absent absolute good cause. If multiple trials are scheduled to begin on the same day, trial in this civil action will trail day to day or week to week until completion of any criminal case or older civil case. Moreover, trial in this civil action is subject to suspension mid-trial to accommodate

1 criminal cases.

2 One of this Court's U.S. Magistrate Judges is available to conduct all proceedings in this  
3 action, including entry of final judgment, pursuant to 28 U.S.C. § 28 U.S.C. 636(c), Federal Rule of  
4 Civil Procedure 73, and Local Rule 305. The same jury pool is used by Magistrate Judges and District  
5 Judges. An appeal from Magistrate Judge proceedings is taken directly to the Ninth Circuit Court of  
6 Appeals when the parties consent to Magistrate Judge Jurisdiction. This Court will direct its Clerk to  
7 provide the parties with the Court's form to consent to or decline Magistrate Judge jurisdiction. Within  
8 **fourteen days of this order's date of service**, the parties shall file and serve their form to indicate  
9 whether they consent to or decline Magistrate Judge jurisdiction.

10 Moreover, this Court's Fresno Division randomly and without advance notice reassigned civil  
11 actions to District Judges throughout the nation to serve as visiting judges. In the absence of  
12 Magistrate Judge consent, this action is subject to reassignment to a District Judge from outside the  
13 Eastern District of California. Case management difficulties, including trial setting and interruption,  
14 are avoided if the parties consent to conduct of further proceedings by one of this Court's Magistrate  
15 Judges.

16 Accordingly, the Court orders that:

17 1. The Clerk of the Court is DIRECTED to provide the parties with the form that will  
18 allow them to consent or decline Magistrate Judge Jurisdiction; and

19 2. Within **fourteen** days from this order's date of service, the parties shall notify the Court  
20 whether they consent to or decline Magistrate Judge jurisdiction by filling out the enclosed forms and  
21 returning them to the Court.

22  
23 IT IS SO ORDERED.

24 Dated: March 20, 2015

  
25 SENIOR DISTRICT JUDGE