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3 **UNITED STATES DISTRICT COURT**  
4 **EASTERN DISTRICT OF CALIFORNIA**  
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6 LAMONT SHEPARD,

7 Plaintiff,

8 v.

9 R. PEREZ, et al.,

10 Defendants.

Case No. 1:10-cv-00023-DLB PC

**ORDER DENYING MOTION TO  
WITHDRAW NOTICE OF APPEAL AS  
MOOT**

ECF No. 67

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12 Plaintiff Lamont Shepard ("Plaintiff") is a California state prisoner proceeding pro se and in  
13 forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. This action is proceeding on  
14 Plaintiff's complaint, filed January 6, 2010, against Defendants L. A. Martinez, R. Perez, P. Garcia,  
15 J. Soto, E. De la Cruz, and A. Trevino for excessive force in violation of the Eighth Amendment.  
16 On October 25, 2012, Plaintiff filed a notice of appeal. On November 15, 2012, Plaintiff filed a  
17 motion to withdraw his notice of appeal. ECF No. 67. On November 30, 2012, the United States  
18 Court of Appeals for the Ninth Circuit denied Plaintiff's appeal for lack of jurisdiction.

19 Accordingly, it is HEREBY ORDERED that Plaintiff's motion to withdraw his notice of  
20 appeal, filed November 15, 2012, is denied as moot.

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23 IT IS SO ORDERED.

24 Dated: January 7, 2013

/s/ Dennis L. Beck  
25 UNITED STATES MAGISTRATE JUDGE  
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