

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ALEZANDER DELGADO,	Case No. 1:12-cv-00319-AWI-SKO (PC)
Plaintiff, v.	ORDER AFTER APPEAL and WITHDRAWING DISCOVERY AND SCHEDULING ORDER
GONZALEZ,	(Docs. 49, 50, 51.)
Defendant.	TWENTY-ONE (21) DAY DEADLINE

Plaintiff, Alezander Delgado, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on March 2, 2012. Initial proceedings resulted in dismissal of the action as barred by the favorable termination rule. (Doc. 36, citing *Heck v. Humphrey*, 512 U.S. 477 (1994); *Edwards v. Balisok*, 520 U.S. 641 (1997).)

Following Plaintiff's appeal, the Ninth Circuit remanded the action finding that it was unknown whether Plaintiff's "rules violation and loss of sixty days of good-time credit would *necessarily* affect the length of time he must serve." (Doc. 49, 9th Order, (citing *Nettles v. Grounds*, 830 F.3d 922 (9th Cir. 2016) (en banc), *cert denied*, (U.S. Jan. 9, 2017)(No. 16-6556) (emphasis in the original)); Doc. 50, Mandate.) A Discovery and Scheduling Order issued prematurely on April 27, 2017, due to a clerical error. (Doc. 51.)

This action is, therefore, proceeding on Plaintiff's claim in the First Amended Complaint against Defendant Gonzalez for retaliation in violation of the First Amendment. Although

1	Defendants filed a motion which precipitated the prior dismissal of this action, they have not filed
2	a responsive pleading.
3	Accordingly, the Court ORDERS that the Discovery and Scheduling Order that issued on
4	April 27, 2017, (Doc. 51), is WITHDRAWN and Defendant shall file a response to the First
5	Amended Complaint within twenty-one (21) days of the date of service of this order.
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7	IT IS SO ORDERED.
8	Dated: May 2, 2017 /s/ Sheila K. Oberto
9	UNITED STATES MAGISTRATE JUDGE
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