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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

COLIN M. RANDOLPH,  
Plaintiff,  
v.  
B. NIX, et al.,  
Defendants.

CASE NO. 1:12-cv-00392-LJO-MJS (PC)  
**ORDER DENYING MOTION ALERTING THE COURT THAT WARDEN FAILED TO OBEY COURT ORDER**  
**(ECF No. 103)**  
**ORDER REGARDING WITHDRAWAL OF MOTION FOR SUMMARY JUDGMENT**  
**(ECF No. 104)**  
**CLERK TO TERMINATE ECF No. 94**

Plaintiff is a state prisoner proceeding in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The action proceeds against Defendant Akano on Plaintiff's Eighth Amendment medical indifference claim. (ECF No. 19.)

On January 28, 2016, the Court issued an order directing staff at Plaintiff's institution to facilitate a telephone call between Plaintiff and proposed volunteer counsel. (ECF No. 92.) Apparently, however, on the date of the scheduled call, Plaintiff was transferred to another institution and the call did not occur. (See ECF No. 103.)

On February 22, 2016, Plaintiff filed a motion seeking to hold the Warden in

1 contempt and requesting a new order to facilitate said call. (ECF No. 103.) This is the  
2 second such motion filed by Plaintiff.

3 Since the submission of Plaintiff's motion, Plaintiff has spoken with the proposed  
4 counsel and counsel has been appointed for Plaintiff. (ECF No. 99.) Accordingly,  
5 Plaintiff's motion is moot and will be denied.

6 Counsel also filed a notice of withdrawal of Plaintiff's motion for summary  
7 judgment. (ECF No. 104.) The motion for summary judgment was filed pro se before  
8 counsel was appointed. (ECF No. 94.)

9 Based on the foregoing, it is HEREBY ORDERED that:

- 10 1. Plaintiff's motion alerting the Court that the Warden failed to obey a court order  
11 (ECF No. 103) is DENIED as moot;
- 12 2. Plaintiff's motion for summary judgment (ECF No. 94) is WITHDRAWN; and
- 13 3. The Clerk's Office is directed to terminate ECF No. 94.

14  
15 IT IS SO ORDERED.

16 Dated: February 26, 2016

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE