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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 KELVIN FELTON,

12 Plaintiff,

13 vs.

14 J. LOPEZ, et al.,

15 Defendants.
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1:12-cv-01066-AWI-GSA-PC

ORDER DENYING REQUEST FOR
APPLICATION OF NON-PRISONER
PROVISIONS IN LOCAL RULES
(Doc. 72.)

17 **I. BACKGROUND**

18 Kelvin Felton (“Plaintiff”) is a former state prisoner proceeding pro se and in forma
19 pauperis with this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the
20 Complaint commencing this action on June 29, 2012, against defendants J. Lopez and S.
21 Harrison (“Defendants”). (Doc. 1.) On May 2, 2014, Defendants appeared in this action.
22 (Docs. 38, 39.) On March 5, 2015, Plaintiff filed the First Amended Complaint, which awaits
23 the court’s requisite screening. (Doc. 68.)

24 On April 9, 2015, Defendants filed a request for application of non-prisoner provisions
25 in the Local Rules in this action. (Doc. 72.)

26 **II. LOCAL RULE 230(l)**

27 Local Rule 230 governs the Court’s civil motion calendar and procedure. Rule 230(l)
28 provides exceptions to the rule for motions in prisoner cases, defined as “cases wherein one

1 party is incarcerated and proceeding in propria persona." L.R. 230(l).¹ The main exception to
2 the rule is that motions in prisoner cases are "submitted upon the record without oral argument
3 unless otherwise ordered by the Court." Id.

4 Defendants seek relief from Local Rule 230(l). Defendants note that on April 6, 2015,
5 Plaintiff filed a notice of change of address indicating that he has been released from prison and
6 now resides in San Diego, California. (Doc. 71.)

7 At the time Plaintiff's action was filed, Plaintiff was incarcerated at a correctional
8 institution and was proceeding in propria persona. Therefore, the Court designated the case as
9 a prisoner case. (See Court Docket.) As noted by Defendants, on April 6, 2015, Plaintiff filed
10 a notice of change of address, indicating that he was recently released, and notifying the court
11 of his residence at a street address in San Diego, California. (Doc. 71.)

12 Defendants correctly observe that, due to Plaintiff's change in custody, this case does
13 not currently fit within the definition of a prisoner case as stated in Rule 230(l). However, for
14 practical reasons, when a case is designated a prisoner case at the Court, the designation usually
15 remains the same until the case is closed. The Court is obligated by law to follow distinctly
16 different rules and procedures when managing prisoner case litigation, and continuity is
17 necessary for the Court to manage its docket. Although the Court is certainly not suggesting,
18 nor in any way indicating, what may occur in the present case, it does take note that in some
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20 ¹ Local Rule 230(l) provides:

21 "All motions, except motions to dismiss for lack of prosecution, filed in actions wherein one
22 party is incarcerated and proceeding in propria persona, shall be submitted upon the record
23 without oral argument unless otherwise ordered by the Court. Such motions need not be noticed
24 on the motion calendar. Opposition, if any, to the granting of the motion shall be served and
25 filed by the responding party not more than twenty-one (21) days after the date of service of the
26 motion. A responding party who has no opposition to the granting of the motion shall serve and
27 file a statement to that effect, specifically designating the motion in question. Failure of the
28 responding party to file an opposition or to file a statement of no opposition may be deemed a
waiver of any opposition to the granting of the motion and may result in the imposition of
sanctions. The moving party may, not more than seven (7) days after the opposition is served,
serve and file a reply to the opposition. All such motions will be deemed submitted when the
time to reply has expired." L.R. 230(l).

1 other instances a prisoner who has been released from custody is was later returned to custody,
2 and then released again at a later time. This Court has hundreds of pending prisoner cases, and
3 it would create an enormous burden, with little benefit, to change the designation of a case,
4 with the resultant procedural changes, with each change in a litigant's custody status. For these
5 reasons, this case shall remain a prisoner case at this time, and Defendants' motion shall be
6 denied.

7 **III. CONCLUSION**

8 Accordingly, IT IS HEREBY ORDERED that Defendants' motion for the application of
9 non-prisoner provisions in Local Rules in this action, filed on April 9, 2015, is DENIED.

10 IT IS SO ORDERED.

11 Dated: April 10, 2015

12 /s/ Gary S. Austin
13 UNITED STATES MAGISTRATE JUDGE