

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
8

9 THOMAS GOOLSBY,

10 Plaintiff,

11 vs.

12 MATTHEW CATE, et al.,

13 Defendants.  
14  
15  
16  
17

1:13-cv-00119-AWI-EPG-PC

ORDER GRANTING DEFENDANTS'  
REQUEST FOR WITHDRAWAL OF  
MOTION  
(ECF No. 61.)

ORDER WITHDRAWING MOTION FOR  
COURT TO DECLARE PLAINTIFF A  
VEXATIOUS LITIGANT, REQUIRE  
PLAINTIFF TO POST SECURITY, AND  
ISSUE A PRE-FILING ORDER, FROM  
COURT'S CALENDAR, WITHOUT  
PREJUDICE  
(ECF No. 46.)

18 Thomas Goolsby ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*  
19 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. This action was filed on  
20 January 25, 2013. (ECF No. 1.) The case now proceeds with the Second Amended Complaint  
21 filed on June 6, 2014, on Plaintiff's Eighth Amendment claims against defendants Warden  
22 Kimberly Holland, Warden Michael Stainer, and Captain J. Lundy, for denial of adequate  
23 outdoor exercise time; and defendants Captain J. Lundy, Sergeant S. Foster, Plumlee  
24 (Maintenance Supervisor), Warden Kimberly Holland, Correctional Officer Jordon, and  
25 Correctional Officer Uribe, for deliberate indifference to unsanitary and unsafe conditions.<sup>1</sup>  
26 (ECF No. 34.)  
27

28 <sup>1</sup> On March 24, 2015, the Court issued an order dismissing all other claims and defendants from  
this action, for Plaintiff's failure to state a claim under § 1983. (ECF No. 36.)

1 On December 3, 2015, defendants Foster, Plumlee, Holland, Jordon, Stainer, and Uribe  
2 (“Defendants”) filed a Notice of Withdrawal, seeking to withdraw, without prejudice, their  
3 Motion for Court to Declare Plaintiff a Vexatious Litigant, Require Plaintiff to Post Security,  
4 and Issue a Pre-Filing Order, which was filed by Defendants on July 23, 2015. (ECF No. 61.)  
5 The Court finds no evidence of bad faith by Defendants, or prejudice to Plaintiff, in withdrawal  
6 of the motion. Therefore, Defendants’ request shall be granted.

7 Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

- 8 1. Defendants’ request for withdrawal, filed on December 3, 2015, is GRANTED;  
9 and
- 10 2. Defendants’ Motion for Court to Declare Plaintiff a Vexatious Litigant, Require  
11 Plaintiff to Post Security, and Issue a Pre-Filing Order, filed by Defendants on  
12 July 23, 2015, is WITHDRAWN from the Court’s calendar, without prejudice.

13  
14 IT IS SO ORDERED.

15 Dated: December 10, 2015

16 /s/ Eric P. Grogan  
17 UNITED STATES MAGISTRATE JUDGE  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28