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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**ELTON W. ERVIN,**  
**Plaintiff,**  
**v.**  
**MERCED POLICE DEPT.; MERCED  
POLICE OFFICERS E. CHAVEZ,  
APONTE, SAKYER, and PADGETT,  
and DOES 1 to 4,,**  
**Defendants.**

**No. 1:13cv0446 AWI GSA**  
**ORDER VACATING HEARING DATE OF  
JULY1, 2013 AND TAKING MATTER  
UNDER SUBMISSION**

In this action for damages, defendants Merced Police Department, et al. (“Defendants”) have noticed a motion to dismiss claims from the First Amended Complaint of plaintiff Elton W. Ervin (“Plaintiff”). The matter was scheduled for oral argument to be held July 1, 2013. The Court has reviewed defendants’ motion. Opposition, which was due not later than June 21, 2013, was not filed as of that date and consequently the motion may not be opposed at oral argument. Local Rule 78-230(b). The court has determined that the motion is suitable for decision without oral argument. Local Rule 78-230(h).

Therefore, IT IS HEREBY ORDERED that the previously set hearing date of July

1 1, 2013, is VACATED, and no party shall appear at that time. As of July 1, 2013, the  
2 Court will take the matter under submission, and will thereafter issue its decision.

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IT IS SO ORDERED.

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Dated: June 26, 2013

  
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SENIOR DISTRICT JUDGE

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