

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

CHARLES W. WINDHAM,  
Plaintiff,  
v.  
M. MARIN, et al.,  
Defendants.

Case No. 1:14-cv-01636-DAD-BAM (PC)  
**ORDER DENYING PLAINTIFF’S MOTION  
FOR EXTENSION OF TIME TO PREPARE  
FOR TELEPHONIC STATUS CONFERENCE  
AS MOOT**  
(ECF No. 119)  
**ORDER DISCHARGING ORDER TO SHOW  
CAUSE**  
(ECF No. 123)  
**ORDER RESETTING TELEPHONIC  
STATUS CONFERENCE**  
Date: August 24, 2017  
Time: 10:00 a.m.

Plaintiff Charles W. Windham (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s Eighth Amendment claims of excessive force against Defendants M. Marin, D. Uribe, W. Rasley, J. Contreras, A. Capano, R. Rubio, and Doe #1, and for deliberate indifference to serious medical needs against Defendants C. Navarro, V. Morales, M. Marin, and S. Shiver.

On July 28, 2017, the Court held a telephonic status conference before the undersigned to discuss the issue of Plaintiff’s legal property, to address what efforts had been made to locate and return Plaintiff’s legal property, and what items, if any, are missing and necessary for Plaintiff to respond to Defendants’ special interrogatories.. Plaintiff did not appear. At the conference, defense counsel represented to the Court that she had arranged for Plaintiff’s participation in the conference with the litigation coordinator at the institution where Plaintiff is housed. Defense

1 counsel was informed by that litigation coordinator, however, that Plaintiff was refusing to appear  
2 at the conference or leave his cell. The Court issued an order to show cause why Plaintiff failed  
3 to participate in these proceedings and obey the order of this Court and why sanctions, up to and  
4 including terminating sanctions, should not be imposed for his willful refusal to appear at the  
5 telephonic status conference. (ECF No. 123.)

6 Plaintiff filed a timely response on August 7, 2017, explaining that he was prepared but  
7 unable to appear at the telephonic status conference due to a severe bout of diarrhea, which lasted  
8 from early morning on the date of the status conference until the next day. (ECF No. 124.) The  
9 Court finds that Plaintiff has presented good cause for his failure to attend the telephonic status  
10 conference.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's motion for extension of time to prepare for telephonic status conference, (ECF  
13 No. 119), is DENIED as moot;
- 14 2. The order to show cause issued on July 28, 2017, (ECF No. 123), is DISCHARGED;
- 15 3. This matter is set for a telephonic status conference on **August 24, 2017, at 10:00 a.m.**  
16 before the undersigned. The parties shall appear telephonically by using the following  
17 dial-in number and passcode at the time set for the hearing: dial-in number 1-877-411-  
18 9748; passcode 3190866. Counsel for Defendants is required to arrange for Plaintiff's  
19 participation by contacting the litigation coordinator at the institution where Plaintiff is  
20 housed; and
- 21 4. **Failure to appear will result in a recommendation of dismissal of this action.**

22  
23 IT IS SO ORDERED.

24 Dated: August 13, 2017

25 /s/ Barbara A. McAuliffe  
26 UNITED STATES MAGISTRATE JUDGE