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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH PEREZ,
Plaintiff,
vs.
R. PADILLA,
Defendant.

1:14-cv-01730 -EPG (PC)
ORDER SETTING HEARING ON
DEFENDANT’S MOTION TO DISMISS
(ECF NO. 30)

Joseph Perez (“Plaintiff”) is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. On November 15, 2016, R. Padilla (“Defendant”) filed a motion to dismiss. (ECF No. 30). While the Court initially vacated the hearing that Defendant attempted to set (ECF No. 32), the Court now finds that a hearing on the motion to dismiss could be helpful in resolving the issues.

Accordingly, the Court will set a hearing on Defendant’s motion to dismiss. The parties should be prepared to discuss all issues posed by the motion to dismiss, including the Heck bar (Heck v. Humphrey, 512 U.S. 477 (1994); Edwards v. Balisok, 520 U.S. 641 (1997); Nettles v. Grounds, 830 F.3d 922 (9th Cir. 2016), cert. denied, (U.S. Jan. 9, 2017)). In particular, the parties should be prepared to discuss what effect, if any, Plaintiff’s apparent release from prison has on the Heck bar, as well as whether a ruling in Plaintiff’s favor in this case would necessarily imply the invalidity of the 90-day forfeiture of sentence credits.

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In accordance with the above, IT IS HEREBY ORDERED that:

1. A hearing on Defendant’s motion to dismiss is set before Magistrate Judge Grosjean on January 31, 2017, at 2:00 p.m. at the Robert E. Coyle Federal Courthouse, 2500 Tulare Street, Fresno, CA 93721 in Courtroom #10; and
2. The parties may either appear in person or by telephone. To appear telephonically, the parties are directed to use the following dial-in number and passcode: 1-888-251-2909; passcode 1024453.

IT IS SO ORDERED.

Dated: January 10, 2017

/s/ Eric P. Grosjean
UNITED STATES MAGISTRATE JUDGE