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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 BRIAN CAPUTO,

10 Plaintiff,

11 v.

12 GONZALES, et al.,

13 Defendants.
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Case No. 1:15-cv-01008-LJO-EPG (PC)

ORDER ON PLAINTIFF'S REQUEST FOR
RELIEF AND REQUEST TO THE COURTS

(ECF NOS. 151 & 152)

15 Brian Caputo ("Plaintiff") is a prisoner¹ proceeding *pro se* and *in forma pauperis* in this
16 this civil rights action filed pursuant to 42 U.S.C. § 1983.

17 On January 14, 2019, Plaintiff filed a request for relief and a request to the courts.
18 (ECF Nos. 151 & 152). In his request for relief, Plaintiff describes the incidents alleged in his
19 complaint (with some additional details included), and asks "to be granted relief...."

20 In his request to the courts, Plaintiff alleges (and submits evidence) that defendant
21 Gonzales spelled his name "Gonzalez" on an incident report. Plaintiff then argues that if
22 defendant Gonzales lied about the spelling of his name, he could be lying about other things as
23 well. Plaintiff also suggests that the difference in spelling could be "a play by Defendants to
24 defer or derail the justice system, or a play to avoid or slow the courts[.]" "Plaintiff asks the
25 courts for what they feel to be appropriate to this matter be done."
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28 ¹ Plaintiff was detained at Kern County Jail at the time of the incidents alleged in the complaint. He is
now incarcerated at USP Yazoo City.

1 As to Plaintiff's request for relief, it will be denied. It is unclear what Plaintiff is asking
2 the Court to do. The Court notes that this case is proceeding on Plaintiff's complaint, in which
3 he requested relief. If Plaintiff is successful in the litigation he will likely get some form of
4 relief. The Court cannot decide the underlying issues in the case on a motion such as this one.

5 As to Plaintiff's request to the courts, it will also be denied. Plaintiff may present
6 evidence and argument about the credibility of a defendant at trial, including the information
7 regarding the spelling of his name, if this case proceeds to trial, or other hearing or motion that
8 goes to the merits of the case. It is not appropriate for the Court to make a credibility
9 determination on a motion by the Plaintiff.

10 Accordingly, based on the foregoing, IT IS ORDERED that Plaintiff's request for relief
11 is denied and that Plaintiff's request to the courts is denied.

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13 IT IS SO ORDERED.

14 Dated: January 17, 2019

15 /s/ Eric P. Gray
16 UNITED STATES MAGISTRATE JUDGE
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