## 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 MICHAEL HERNANDEZ GONZALEZ, Case No. 1:15-cv-01200-BAM (PC) 12 Plaintiff. ORDER VACATING SEPTEMBER 7, 2018. HEARING ON DEFENDANTS' MOTION TO 13 v. DISMISS 14 THE FRESNO SHERIFF'S (ECF No. 74) DEPARTMENT, et al., 15 Defendants. 16 17 Plaintiff Michael Hernandez Gonzalez ("Plaintiff"), who was a pretrial detainee at the 18 time of the incident, is proceeding pro se and in forma pauperis in this civil rights action pursuant 19 to 42 U.S.C. § 1983. This action proceeds against Defendants Mims, Gutierrez, Palacios, and 20 Nemoto for allegedly failing to protect Plaintiff in violation of the Fourteenth Amendment. 21 On August 23, 2018, Defendants filed a motion to dismiss this action for Plaintiff's failure 22 to comply with Court orders, or alternatively to amend the discovery and scheduling order. (ECF 23 No. 74.) Defendants set the motion for hearing before the undersigned on September 7, 2018, at 9:00 a.m. (Id.) 24 The parties are advised that, pursuant to Local Rule 230(1), "all motions, except motions 25 26 to dismiss for lack of prosecution, filed in actions wherein one party is incarcerated and 27 proceeding in propia persona, shall be submitted upon the record without oral argument unless 28 otherwise ordered by the Court. Such motions need not be noticed on the motion calendar."

Although Plaintiff has apparently been released from custody, it is the Court's general practice to apply Local Rule 230(1) and certain other local rules concerning actions in which one party is incarcerated and proceeding in propia persona, even when the pro se plaintiff is no longer incarcerated. Accordingly, IT IS HEREBY ORDERED as follows: 1. The motion hearing set for September 7, 2018, is VACATED; and 2. Plaintiff's opposition or statement of non-opposition to Defendants' motion remains due within **twenty-one** (21) days after the date of service of the motion. IT IS SO ORDERED. 1s/Barbara A. McAuliffe Dated: **August 27, 2018**