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 ORDER DIRECTING PLAINTIFF TO FILE Plaintiff. NOTICE CLARIFYING HIS INTENT 13 v. (ECF No. 77) 14 THE FRESNO SHERIFF'S DEPARTMENT, et al., TWENTY-ONE (21) DAY DEADLINE 15 Defendants. 16 17 Plaintiff Michael Hernandez Gonzalez ("Plaintiff") who was a pretrial detainee at the time 18 of the incident, is proceeding pro se and in forma pauperis in this civil rights action pursuant to 19 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 No. 74.) On September 12, 2018, Plaintiff filed a document which appears to indicate his non-23 24 opposition to Defendants' motion to dismiss, or to the hearing on Defendants' motion to dismiss. (ECF No. 77.) Defendants have not filed a response. 25 26 In his filing, Plaintiff states that he is seeking an attorney to represent him in this matter. 27 Plaintiff also states that he was released from prison on April 25, 2018, after which he reported to 28 his parole agent. Plaintiff was apparently shot nine times on May 11, 2018, and was hospitalized

until July. After that time, he remained homeless and without income, and is currently residing at a mental ward. (Id.) Based on this filing, it is not clear to the Court whether Plaintiff intended to file a non-opposition to the motion to dismiss, or whether he intends to proceed with this litigation. Although the document is titled as a non-opposition, Plaintiff goes on to explain that he is seeking representation, and to provide a justification for his failure to communicate with the Court in recent months. In light of Plaintiff's pro se status, the Court finds it appropriate to allow Plaintiff additional time to clarify his intent, and to file an opposition to Defendants' motion to dismiss, if he wishes to do so. Accordingly, within **twenty-one** (21) days from the date of service of this order, Plaintiff shall clarify, in writing, whether he does not oppose the granting of Defendants' motion to dismiss, which may result in dismissal of this action, or whether he intends to proceed with the litigation and participate to the best of his ability. Plaintiff's failure to respond to the Court's order will result in dismissal of this action for failure to obey a court order and failure to prosecute. IT IS SO ORDERED. /s/Barbara A. McAuliffe Dated: October 3, 2018