

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF CALIFORNIA  
3

4 MAURICE MUHAMMAD,

5 Plaintiff,

6 vs.

7 KOMIN, et al.,

8 Defendants.  
9

1:15-cv-01373-EPG (PC)

ORDER DISCHARGING ORDER TO  
SHOW CAUSE

ORDER SETTING SCHEDULING  
CONFERENCE

ORDER DIRECTING CLERK TO ASSIGN  
DISTRICT JUDGE

10 **A. Background**

11 Maurice Muhammad (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*  
12 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding on  
13 two claims in the First Amended Complaint against Defendants Komin and Mitchell in their  
14 individual capacities for violation of the First Amendment free exercise clause, as well as  
15 against Defendants Komin and Mitchell in their official capacities for violation of RLUIPA.  
16 (ECF No. 16.)

17 On September 10, 2015, the Court issued an informational order identifying specific  
18 rules unique to *pro se* prisoner civil rights actions in this District. (ECF No. 3.) Plaintiff was  
19 warned that failure to comply with the Order, the Federal Rules of Civil Procedure and the  
20 Local Rules “will be grounds for imposition of sanctions which may include dismissal of the  
21 case. Local Rule 110; Fed. R. Civ. P. 41(b).” (*Id.*) Plaintiff was further warned that failure to  
22 maintain a current address on the docket would result in dismissal of the case. (*Id.*)

23 On June 28, 2017, the Court entered an order requiring initial disclosures and setting  
24 mandatory scheduling conference for October 2, 2017. (ECF No. 21.) The parties were ordered  
25 to exchange initial disclosures within 30 days of the order and be prepared to discuss a range of  
26 issues at the mandatory scheduling conference. (*Id.*) The parties were ordered to file a  
27 scheduling conference statement confirming the date that initial disclosures were served and  
28 any deficiencies in either party’s disclosures. (*Id.*)

1 It does not appear that Plaintiff has complied with any of the directives of the Court's  
2 June 28, 2017 Order. First, there is no indication that Plaintiff has made initial disclosures.  
3 Defense counsel confirmed at the October 2, 2017 hearing that she has not received any type of  
4 communication from Plaintiff. Second, Plaintiff did not file a scheduling conference statement,  
5 as directed. Third, Plaintiff did not appear at the October 2, 2017 mandatory scheduling  
6 conference. Last, mail sent to Plaintiff on June 28, 2017 was returned as undeliverable.

7 On October 3, 2017, the Court ordered Plaintiff to Show Cause why this case should not  
8 be dismissed for failure to prosecute and failure to comply with Court orders. Plaintiff was  
9 ordered to file a written response within 30 days. (ECF No. 25.)

10 **B. Response October 3, 2017 Order to Show Cause**

11 Plaintiff responded to the Order to Show Cause on November 6, 2017. (ECF No. 26.)  
12 He indicated that he had been released from prison and was suffering from mental illness and  
13 homelessness. Therefore, he was unable to comply with the directives of the Court's June 28,  
14 2017 Order. Plaintiff indicates that he is attempting to find a private attorney to assist with his  
15 case.

16 Defendants oppose the discharge of the Order to Show Cause and request dismissal.  
17 (ECF No. 27.)

18 **C. Order**

19 Although there is a substantial record of noncompliance with Court directives, the Court  
20 does not find sufficient basis at this time to recommend dismissal of the action. Plaintiff should  
21 be aware, however, that any further compliance failures will likely result in dismissal of this  
22 case.

23 Accordingly, the Court ORDERS as follows:

- 24 1) The October 3, 2017 Order to Show Cause is DISCHARGED;  
25 2) The Clerk is directed to send Plaintiff a copy of the Court's June 28, 2017 Order  
26 (ECF No. 21);  
27 3) Plaintiff shall make initial disclosures, as described in the June 28 Order, within 30  
28 days of this Order;

- 1 4) An Initial Scheduling Conference will be held on February 7, 2018 at 3:00 p.m. in  
2 Courtroom 10 (EPG) before Magistrate Judge Erica P. Grosjean. Parties have leave  
3 to appear by phone. To join the conference, each party is directed to call the  
4 toll-free telephone number (888) 251-2909 and use Access Code 1024453;  
5 5) The Clerk's Office is directed to randomly assign a Fresno District Judge to this  
6 matter; and  
7 6) Failure to comply with this Order will result in dismissal of the case.

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9 IT IS SO ORDERED.

10 Dated: November 28, 2017

11 /s/ Erica P. Grosjean  
12 UNITED STATES MAGISTRATE JUDGE  
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