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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELAINE K. VILLAREAL,	
	Plaintiff,
v.	
COUNTY OF FRESNO,	
	Defendant.

Case No. 1:15-cv-01410-EPG (PC)
ORDER GRANTING DEFENDANT’S
REQUEST FOR EXTENSION OF TIME
FOR ALBINO HEARING
(ECF NO. 44)
ORDER VACATING WRITS
(ECF NOS. 41, 42, & 43)
ORDER DIRECTING CLERK TO SEND
PLAINTIFF A COPY OF THIS ORDER

An Albino evidentiary hearing is currently set for September 12, 2017, at 10:00 a.m. (ECF No. 36). On August 10, 2017, Defendant filed a request to continue the evidentiary hearing. (ECF No. 44). According to the declaration of Scott Hawkins (Defendant’s attorney), which was filed along with the request for extension, Defendant needs additional time because its attorney has other cases that he needs to work on.

Plaintiff objected to the extension. (ECF No. 46). Plaintiff asks that the Court deny Defendant’s request because the case has already been going on for two years, because Defendant’s counsel already agreed to the September 12, 2017, date, and because there is no valid reason why the hearing should be continued. Additionally, Plaintiff states that if the hearing is

1 continued some of her witnesses will be released from Fresno County Jail, and she will have no
2 way of contacting them to let them know of the date of the hearing.

3 While the Court appreciates the demands on Counsel's time, it also cautions that
4 continuances based on demands of other cases are disfavored because Counsel is presumed to
5 have sufficient resources to address the cases where he serves as counsel. Additionally, the
6 continuance is disfavored because this case is on hold until the issue of exhaustion is resolved.

7 Nevertheless, the Court will overrule Plaintiff's objection and continue the evidentiary
8 hearing, noting that it will not continue the evidentiary hearing again absent extraordinary
9 circumstances.

10 Because the Court is continuing the evidentiary hearing, it will vacate the writs of habeas
11 corpus ad testificandum that have been issued (ECF Nos. 41, 42, & 43).

12 Additionally, in order to avoid prejudice to Plaintiff, the Court will order that Defendant
13 provide Plaintiff's counsel with the addresses of all of Plaintiff's prospective witnesses that have
14 been released from Fresno County Jail, or that will be released prior to the Albino hearing. This
15 will allow Plaintiff, through counsel, to contact those witnesses and arrange for their attendance if
16 she so chooses.

17 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that:

- 18 1. The Albino evidentiary hearing is continued to November 14, 2017, at 10:30 a.m. All
19 other dates and deadlines remain the same;
- 20 2. Defendant shall provide Plaintiff's counsel with the addresses of all of Plaintiff's
21 prospective witnesses that have been released from Fresno County Jail, or that will
22 be released prior to the Albino evidentiary hearing;
- 23 3. The Clerk of Court is directed to send a copy of this order to Elaine Villareal;
- 24 4. The Order & Writ of Habeas Corpus Ad Testificandum to Transport Elaine K.
25 Villareal, Jail ID # 1439621, BK # 1515632 (ECF No. 41), is VACATED;

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5. The Order & Writ of Habeas Corpus Ad Testificandum to Transport Rachael Vasquez, Jail ID # 1213629, BK # 1616664 (ECF No. 42), is VACATED; and
6. The Order & Writ of Habeas Corpus Ad Testificandum to Transport Angie M. Padilla, CDC # X-36920 (ECF No. 43), is VACATED.

IT IS SO ORDERED.

Dated: August 21, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE