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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 RONALD TIMBERLAND,
12 Plaintiff,
13 vs.
14 G. MASCARENAS, et al.,
15 Defendants.
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1:16-cv-00922-NONE-GSA-PC

**ORDER DENYING PLAINTIFF’S MOTION
FOR REFERRAL TO SETTLEMENT
PROGRAM, WITHOUT PREJUDICE
(ECF No. 48.)**

17 Ronald Timberland (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*
18 *pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. This action now
19 proceeds with Plaintiff’s Second Amended Complaint, filed on June 20, 2018, against defendant
20 G. Mascarenas (Correctional Counselor I) (“Defendant”) for failure to protect Plaintiff in
21 violation of the Eighth Amendment.¹ (ECF No. 26.)

22 On December 20, 2019, Plaintiff filed a motion for referral of this case to the court’s
23 settlement program. (ECF No. 48.) On January 6, 2020, the court issued an order requiring the
24 parties to notify the court whether a settlement conference would be beneficial. (ECF No. 50.)
25 On February 5, 2020, Defendant responded to the court’s order opposing Plaintiff’s motion.
26 (ECF No. 58.) Defendant states his belief that this case can be resolved on motions for summary
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28 ¹ On October 12, 2018, the court issued an order dismissing all other claims and defendants from
this action based on Plaintiff’s failure to state a claim. (ECF No. 30.)

1 judgment, and that mediation at this time is premature. (Id.) Plaintiff has not responded to the
2 court's order.

3 The court shall not refer this case for settlement unless all parties to the case have notified
4 the court that they believe, in good faith, that settlement in this case is a possibility and that they
5 are interested in having a settlement conference scheduled by the court. Given that Defendant is
6 not interested in mediation at this time Plaintiff's motion shall be denied, without prejudice, to
7 renewal of the motion at a later stage of the proceedings.

8 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for referral of this case
9 to the court's settlement program, filed on January 26, 2020, is DENIED, without prejudice to
10 renewal of the motion at a later stage of the proceedings.

11 IT IS SO ORDERED.

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13 Dated: March 14, 2020

/s/ Gary S. Austin
14 UNITED STATES MAGISTRATE JUDGE