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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID FLYNN,

 Plaintiff,

 v.

CANLAS, et al.,

 Defendants.

Case No. 1:16-cv-01052-AWI-BAM (PC)

ORDER VACATING OCTOBER 22, 2018,
HEARING ON DEFENDANT’S MOTION TO
DISMISS

(ECF No. 52)

Plaintiff David Flynn (“Plaintiff”) is a former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff was a prisoner at the time this action was initiated. This action proceeds against Defendant Maddox for deliberate indifference to serious medical needs in violation of the Eighth Amendment.

On September 14, 2018, Defendant Maddox filed a motion for summary judgment. (ECF No. 52.) Defendant set the motion for hearing before the undersigned on October 22, 2018, at 1:30 p.m. (Id.)

The parties are advised that, pursuant to Local Rule 230(l), “all motions, except motions to dismiss for lack of prosecution, filed in actions wherein one party is incarcerated and proceeding *in propria persona*, shall be submitted upon the record without oral argument unless otherwise ordered by the Court. Such motions need not be noticed on the motion calendar.” It is the Court’s general practice to apply Local Rule 230(l) and certain other local rules concerning

1 actions in which one party is incarcerated and proceeding *in propria persona*, even when the *pro*
2 *se* plaintiff is no longer incarcerated. Therefore, because Plaintiff filed this action while he was
3 incarcerated and proceeding *pro se*, the Court will apply Local Rule 230(1), even although
4 Plaintiff has now been released from custody,

5 Accordingly, IT IS HEREBY ORDERED as follows:

- 6 1. The motion hearing set for October 22, 2018, is VACATED;
- 7 2. Plaintiff's opposition or statement of non-opposition to Defendant's motion for
8 summary judgment, (ECF No. 52), remains due within **twenty-one (21) days** after the
9 date of service of the motion; and
- 10 3. Defendant's motion for summary judgment is referred to the Magistrate Judge for the
11 purpose of issuing a findings and recommendation.

12 IT IS SO ORDERED.

13 Dated: September 18, 2018

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15 SENIOR DISTRICT JUDGE