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

JOHN E. MITCHELL,

Plaintiff,

v.

CRM M.S. ROBICHEAUX and
LIEUTENANT THOMPSON,

Defendants.

Case No. 1:16-cv-01148-DAD-EPG (PC)
USCA Case No. 17-16691

ORDER DENYING PLAINTIFF’S MOTION
TO WITHDRAW NOTICE OF APPEAL
AND DIRECTING CLERK TO SEND THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT A COPY OF
THIS ORDER AND PLAINTIFF’S
MOTION

(ECF NO. 60)

John E. Mitchell (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On August 18, 2017, Plaintiff filed a notice of appeal. (ECF No. 62). On that same day Plaintiff filed a motion to withdraw the notice of appeal.¹ (ECF No. 60).

Plaintiff’s motion is more properly brought before the United States Court of Appeals for the Ninth Circuit. Therefore, the Court will deny the motion and direct the Clerk of Court to send the Ninth Circuit Court of Appeals a copy of the motion and this order.

Accordingly, based on the foregoing, IT IS HEREBY ORDERED THAT:

1. Plaintiff’s motion to withdraw the notice of appeal is DENIED, without prejudice;

¹ It appears that the notice of appeal was mailed to the Court three days earlier than the motion to withdraw the notice of appeal.

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and

2. The Clerk of Court is directed to send the Ninth Circuit Court of Appeals a copy of the motion to withdraw the notice of appeal and a copy of this order.

IT IS SO ORDERED.

Dated: August 28, 2017

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE