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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARIO AMADOR GONZALEZ,

Plaintiff,

v.

DR. SCHARFFENBERG and R.N. S. SOTO,

Defendants.

Case No. 1:16-cv-01675-DAD-EPG (PC)

ORDER VACATING HEARING,
DENYING PLAINTIFF’S REQUEST FOR
CALL, GRANTING PLAINTIFF AN
EXTENSION OF TIME TO RESPOND TO
MOTION FOR SUMMARY JUDGMENT,
AND DIRECTING ATTORNEY STANLEY
SILVER TO RETURN PLAINTIFF’S CASE
FILE

(ECF NOS. 137 & 139)

ORDER DIRECTING CLERK TO SEND A
COPY OF THIS ORDER AND
PLAINTIFF’S MOTION (ECF NO. 139) TO
STANLEY SILVER

Mario Gonzalez (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On July 2, 2018, Plaintiff filed a letter indicating that he had retained attorney Stanley Silver to represent him in this case. (ECF No. 124). On September 4, 2018, Plaintiff filed a request for the Court to allow him to speak with his attorney via telephone or to have a hearing on the matter. (ECF No. 137). Also pending was Defendants’ motion for summary judgment, which was filed on June 25, 2018 (ECF No. 123), and which Plaintiff had not opposed.

Accordingly, the Court set a conference to discuss the status of the case, in order to determine if Plaintiff is represented and to confirm whether Plaintiff intends to oppose the

1 pending motion for summary judgment. (ECF No. 138).

2 On September 10, 2018, Plaintiff filed a motion with the Court. (ECF No. 139). Plaintiff
3 requests his case file back from Mr. Silver, and asks for a sixty-day extension of time to oppose
4 Defendants' motion for summary judgment. He also states that he wishes to invoke his pro se
5 rights.

6 Based on Plaintiff's motion filed on September 10, 2018, it appears that Mr. Silver no
7 longer represents Plaintiff in this case, and that Plaintiff does intend to oppose Defendants'
8 motion for summary judgment pro se. Given this, the Court will vacate the status conference.
9 Additionally, as Mr. Silver does not represent Plaintiff at this time, the Court will deny Plaintiff's
10 request for a phone call with Mr. Silver (ECF No. 137).

11 As there were issues regarding whether Plaintiff was represented, the Court finds good
12 cause to grant Plaintiff's request for a sixty-day extension of time to oppose Defendants' motion
13 for summary judgment.¹

14 Finally, because Plaintiff needs his case file to respond to Defendants' motion for
15 summary judgment, and because Mr. Silver has an ethical obligation to return the case file,² the
16 Court will direct Mr. Silver to return Plaintiff's case file.

17 Accordingly, Stanley Silver is DIRECTED to return Plaintiff's case file.³

18 Additionally, IT IS ORDERED that:

- 19 1. The status conference set for September 24, 2018, at 1:30 PM is VACATED;
- 20 2. Plaintiff's request for the Court to allow him to speak with his attorney via
21 telephone or to have a hearing on the matter is DENIED;
- 22 3. Plaintiff has sixty days from the date of service of this order to respond to

23 ¹ The Court notes that Plaintiff is also responsible for filing a settlement conference statement in compliance
24 with Judge Sheila K. Oberto's order entered on August 3, 2018 (ECF No. 132).

25 ² "A member whose employment has terminated shall: (1) Subject to any protective order or nondisclosure
26 agreement, promptly release to the client, at the request of the client, all the client papers and property. 'Client papers
27 and property' includes correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert's
28 reports, and other items reasonably necessary to the client's representation, whether the client has paid for them or
not." State Bar of California Rule 3-700(D)(1).

³ While Plaintiff's motion filed on September 10, 2018, asks that Stanley Silver be directed to return
Plaintiff's case file, at one point it also suggests that Mr. Silver already returned the case file. If Mr. Silver has
already returned Plaintiff's case file he may disregard this direction.

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Defendants' motion for summary judgment; and

4. The Clerk of Court is directed to serve a copy of this order and Plaintiff's motion filed on September 10, 2018 (ECF No. 139), on: Stanley Silver, 444 S Brand Blvd #203, San Fernando, CA 91340-3619.

IT IS SO ORDERED.

Dated: September 12, 2018

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE