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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 MITCHELL GARRAWAY,

12 Plaintiff,

13 vs.

14 JACQUILINE CIUFO, et al.,

15 Defendants.
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1:17-cv-00533-ADA-GSA (PC)
USCA Case No. 23-15482

**ORDER REFERRING PLAINTIFF'S
MOTION TO DISMISS
INTERLOCUTORY APPEAL TO THE
NINTH CIRCUIT**

(ECF No. 163.)

19 Plaintiff, Mitchell Garraway, is a federal prisoner proceeding *pro se* and *in forma*
20 *pauperis* with this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388
21 (1971). This case now proceeds with Plaintiff's original Complaint filed on April 17, 2017,
22 against defendants Jacqueline Ciufo (Unit Manager), K. Miller (Corrections Officer), and
23 Lieutenant J. Zaragoza (collectively, "Defendants"), for failure to protect Plaintiff in violation of
24 the Eighth Amendment. (ECF No. 1.)

25 On March 31, 2023, Defendants filed a notice of interlocutory appeal to the Ninth Circuit
26 Court of Appeals. (ECF No. 160.) On April 14, 2023, Plaintiff filed a motion to dismiss
27 Defendants' interlocutory appeal. (ECF No. 163.) Plaintiff's motion to dismiss is more properly
28 brought at the Ninth Circuit Court of Appeals and shall be referred to the appeals court.

1 Accordingly, **IT IS HEREBY ORDERED** that:

- 2 1. Plaintiff's motion to dismiss Defendants' interlocutory appeal, filed on April 14,
3 2023, is referred to the Ninth Circuit Court of Appeals as more properly brought
4 at the appeals court; and
- 5 2. The Clerk of Court shall serve a copy of this order on the Ninth Circuit Court of
6 Appeals.

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8 IT IS SO ORDERED.

9 Dated: April 17, 2023

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