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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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10 JERRY DILLINGHAM,

11 Plaintiff,

12 v.

13 F. GARCIA,

14 Defendant.
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Case No. 1:18-cv-00579-NONE-EPG (PC)

ORDER REQUESTING THAT THE
WARDEN OF KERN VALLEY STATE
PRISON REPLY TO PLAINTIFF'S
RESPONSE TO ORDER TO SHOW
CAUSE (ECF NO. 144)

ORDER DIRECTING CLERK TO SEND
A COPY OF THIS ORDER, THE ORDER
TO SHOW CAUSE (ECF NO. 141), AND
PLAINTIFF'S RESPONSE TO THE
ORDER TO SHOW CAUSE (ECF NO.
144) TO SENIOR ASSISTANT
ATTORNEY GENERAL MONICA
ANDERSON AND THE WARDEN OF
KERN VALLEY STATE PRISON

20 Jerry Dillingham ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
21 *pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983.

22 On January 26, 2021, Magistrate Judge Kendall Newman attempted to conduct a
23 settlement conference in this case. (ECF No. 137). Pro bono counsel for Plaintiff, Greg
24 Mullinax, was present. (*Id.*). Counsel for Defendant was present. (*Id.*). However, Plaintiff did
25 not appear. (*Id.*). Thus, after attempting to have Plaintiff attend the conference, and at
26 significant inconvenience to the Court and counsel, Judge Newman cancelled the conference.

27 Subsequently, the Court issued an order to show cause. The Court stated that:

28 It is not clear to the Court why Plaintiff failed to attend the ordered conference.

1 Correctional officers on the date of the conference stated that Plaintiff declined
2 to come to the settlement conference due to pain. However, after the
3 conference, the Court received a motion from Plaintiff (through his non-attorney
4 advisor) to vacate or reset the settlement conference. In the motion, Plaintiff
5 alleges that he was attacked on June 12, 2018. Plaintiff further alleges that there
6 is a plot to murder him or to allow him to be killed. Plaintiff appears to allege
7 that this plot has been ongoing since about July 23, 2020. Due to this plot,
8 Plaintiff did not want to leave his cell to attend the settlement conference.
9 Plaintiff alleges that if he did leave his cell, he would have been subjected to a
10 substantial and imminent threat.

11 (ECF No. 141, p. 2) (footnote and citations omitted).

12 The Court gave Plaintiff twenty-one days to “file a written response to th[e] order
13 explaining why he should not be sanctioned, up to and including dismissal of this case, for
14 failing to appear at the second settlement conference.” (Id. at 3).

15 On February 25, 2021, Plaintiff filed his response. (ECF No. 144). Plaintiff appears to
16 allege that he did not refuse to attend the conference. (Id. at 3). However, Plaintiff also
17 appears to allege that safety concerns “prevented” him from attending the conference. (Id. at
18 11). Plaintiff also appears to allege that he was unable to attend the conference due to a
19 medical condition. (Id. at 14).

20 Given these conflicting versions of events, and the importance of determining if
21 Plaintiff intentionally failed to follow a court order, the Court will request that the Warden of
22 Kern Valley State Prison file a reply to Plaintiff’s response, indicating why Plaintiff was not
23 brought to the settlement conference on January 26, 2021.

24 Accordingly, IT IS REQUESTED that, within fourteen (14) days from the date of
25 service of this order, the Warden of Kern Valley State Prison file a reply to Plaintiff’s response
26 to the order to show cause (ECF No. 144).

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1 Additionally, IT IS ORDERED that the Clerk of Court is directed to serve Senior
2 Assistant Attorney General Monica Anderson and the Warden of Kern Valley State Prison with
3 a copy of this order, the order to show cause (ECF No. 141) and Plaintiff's response to the
4 order to show cause (ECF No. 144).

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6 IT IS SO ORDERED.

7 Dated: **March 2, 2021**

/s/ Ewin P. Groj
8 UNITED STATES MAGISTRATE JUDGE