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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

O'SHEA MANN,
Plaintiff,
v.
A. GARCIA, et al.,
Defendants.

Case No. 1:21-cv-00764-AWI-EPG (PC)

ORDER GRANTING IN PART
DEFENDANTS' EX PARTE APPLICATION
TO OPT OUT OF SETTLEMENT
CONFERENCE AND VACATING
SETTLEMENT CONFERENCE

(ECF Nos. 31, 33, 38)

ORDER VACATING ORDER & WRIT OF
HABEAS CORPUS AD TESTIFICANDUM

(ECF No. 35)

ORDER DIRECTING CLERK OF COURT TO
SERVE A COPY OF THIS ORDER ON THE
LITIGATION COORDINATOR AT CSP-
SACRAMENTO

Plaintiff O'Shea Mann ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action.

On August 19, 2021, the Court entered an order referring this case to an early settlement conference. (ECF No. 23.) The assigned Deputy Attorney General was directed to either: (1) file a notice stating that Defendant(s) opt out of the settlement conference; or (2) contact ADR Coordinator Sujean Park to schedule the settlement conference. (*Id.* at 2.) On October 14, 2021,

1 after the assigned Deputy Attorney General contacted Ms. Park, the Court entered a minute order
2 setting a settlement conference before Magistrate Judge Helena M. Barch-Kuchta. (ECF No. 31.)
3 On October 20, 2021, Magistrate Judge Barch-Kuchta issued an order setting a settlement
4 conference for December 10, 2021, and a pre-settlement conference for December 3, 2021. (ECF
5 No. 33.) On November 10, 2021, the Court issued an order and writ of habeas corpus ad
6 testificandum for Plaintiff. (ECF No. 35.)

7 Currently before the Court is Defendants Thompson, Godfrey, Duran, and Castro's¹
8 ("Defendants") *ex parte* application requesting that the Court vacate its prior orders referring this
9 case to an early settlement conference and setting a settlement conference. (ECF No. 38.)
10 According to the application, Defendants have learned that criminal charges were filed and are
11 currently pending against Plaintiff related to the same incident at issue in this case. (*Id.* at 3.)
12 Defendants intend to file a motion to stay and, due to these facts, believe settlement discussions
13 would not be productive at this time. (*Id.*)

14 The Court finds good cause to vacate the settlement conference and pre-settlement
15 conference. As to the Court's order referring the case to an early settlement conference, the Court
16 construes Defendants' application as a notice stating that they opt out of the settlement
17 conference pursuant to the terms of the order. (*See* ECF No. 23 at 2.)

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Defendants' *ex parte* application (ECF No. 38) is GRANTED as follows;
- 20 2. The orders setting a settlement conference for December 10, 2021, and pre-settlement
21 conference for December 3, 2021, before Magistrate Judge Helena M. Barch-Kuchta
22 (ECF Nos. 31, 33) are VACATED;
- 23 3. The order and writ of habeas corpus ad testificandum issued on November 10, 2021,
24 which directed the Warden to produce O'Shea Mann, CDCR #BC-2573, for a
25 settlement conference on December 10, 2021, is VACATED; and

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28 ¹ Defendant A. Garcia is represented by separate counsel in this case.

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4. The Clerk of Court is directed to serve a copy of this order on the litigation coordinator at CSP-Sacramento via e-mail.

IT IS SO ORDERED.

Dated: November 18, 2021

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE