

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

EARNEST CASSELL WOODS, II

Plaintiff,

No. 2:04-cv-1225 LKK GGH P

vs.

TOM L. CAREY, et al.,

Defendant.

ORDER

\_\_\_\_\_/

Plaintiff is a state prisoner who proceeds pro se in this action filed pursuant to 42 U.S.C. § 1983. On July 9, 2012, the Court of Appeals for the Ninth Circuit reversed and remanded this court’s September 28, 2006 and February 15, 2008 orders granting defendants’ motions for summary judgment and to dismiss for failure to exhaust, respectively. The Court of Appeals’ mandate has now issued. See Doc. No. 262.

The Court of Appeals directed that, “on remand, [plaintiff] be provided with proper notice if and when the defendants re-file either or both of the relevant motions.” See Woods v. Carey, 684 F.3d 934, 941 (9th Cir. 2012).

Defendants’ motions for summary judgment and for dismissal were originally filed in accordance with this court’s July 18, 2005 scheduling order, which had set a deadline for the filing of pre-trial motions. See Doc. No. 29 at 5. In light of the language in the remand

1 opinion which appears to provide defendants with the option of re-filing, or not re-filing, either  
2 or both of their prior motions, this court will not revive the original motions. Instead, the court  
3 will set a deadline for the parties to file pre-trial motions. The court shall schedule deadlines for  
4 pre-trial statements and conference upon disposition of the pre-trial motions, or, if no pre-trial  
5 motions are filed, after the pre-trial motion deadline has passed.

6 Accordingly, IT IS ORDERED that:

- 7 1. All pretrial motions shall be filed within 28 days of the filing date of this order;
- 8 2. The court shall schedule deadlines for pre-trial statements and conference upon  
9 disposition of the pre-trial motions, or, if no pre-trial motions are filed, after the pre-trial motion  
10 deadline has passed.

11 DATED: August 9, 2012

12  
13 /s/ Gregory G. Hollows  
UNITED STATES MAGISTRATE JUDGE

14  
15 ggh:rb  
wood1225.remand