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

RAUL MONTANO,

Plaintiff,

No. 2:07-cv-0800 KJN P

vs.

SOLOMON, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding with appointed counsel, in a civil rights action filed pursuant to 42 U.S.C. § 1983, against one defendant, Dr. Richard Tan. This action proceeds pursuant to the authority of the undersigned magistrate judge for all purposes. 28 U.S.C. § 636(c); Local Rule 305(a).

On December 30, 2011, this court directed the filing, under seal, of a memorandum and declaration submitted by plaintiff's appointed counsel, Jessica Juarez. (Dkt. No. 85.) Pursuant to these matters, Ms. Juarez seeks to withdraw her appointment as counsel for plaintiff. The court directed plaintiff Raul Montano to file, within fourteen days, a written statement informing the court whether he opposes the withdrawal of Ms. Juarez. Plaintiff has not responded to the court's order.

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1 In a subsequent declaration filed by Ms. Juarez, on February 21, 2012, she avers
2 in pertinent part (Dkt. No. 87 at 1-2):

- 3 . . . 3. On or about December 12, 2011, I filed with the Court a motion seeking to
4 withdraw as counsel.
- 5 4. On the same day, I mailed to Mr. Montano a letter, written in Spanish, informing
6 him that I had filed the motion as previously discussed with him in person. A
7 copy of the motion was also attached.
- 8 5. On or about January 3, 2012, I corresponded again with Mr. Montano and stated
9 that he had fourteen (14) days from the filing of the Court's Order on December
10 30, 2011, to write and inform the Court of whether he would consent to my
11 withdrawal as counsel.
- 12 6. On or about January 9, 2012, I received a letter written in English from Mr.
13 Montano letting me know that he does not consent to my withdrawal from his
14 case.
- 15 7. I have had no further correspondence with Mr. Montano nor have I received a
16 copy of any communication Mr. Montano may have filed or sent to the Court.
- 17 8. On February 20, 2012 I sent a copy of this declaration to opposing counsel and my
18 client, Raul Montano. The mailing address I used for my client is as follows:
19 Raul Montano, T56993 San Quentin State Prison, San Quentin, CA 94974. [The
20 court's inquiry, pursuant to CDCR's "Inmate Locator," indicates that this address
21 remains current.]
- 22 9. I again, respectfully request that I be permitted to withdraw as counsel as I believe
23 that the Rules of Professional Conduct would be violated if I continue to represent
24 Plaintiff Raul Montano.

25 The court finds that Ms. Juarez has demonstrated good cause in support of her
26 request to withdraw. Accordingly, Ms. Juarez will be dismissed from this action upon the filing
of this order.

The court will not consider any subsequent motion by plaintiff for appointment of
counsel. Because attorneys appointed to represent prisoners in civil rights actions work
voluntarily, and on a pro bono basis, the number of available attorneys is very limited. Plaintiff
is reminded that the undersigned carefully considered plaintiff's unique circumstances when it

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1 authorized appointment of counsel. Although the court previously denied plaintiff's requests,¹
2 the court later determined, in part, that "[p]laintiff is unable to articulate his claims in English,
3 and the court lacks authority to appoint a certified interpreter for judicial proceedings. However,
4 appointed counsel may retain the services of an interpreter for court proceedings, and the costs
5 may be reimbursable expenses, subject to counsel's timely request and the court's approval.
6 Moreover, it is possible that the court may be able to locate pro bono counsel who is bilingual in
7 English and Spanish, which would be a significant asset in counsel's direct communications with
8 plaintiff and, therefore, in moving this case forward. The court therefore grants plaintiff's
9 motion for appointment of counsel." (Dkt. No. 75 at 5) (internal citation omitted). Although
10 plaintiff was fortunate to obtain appointed counsel with these skills, he was unable to work
11 effectively with counsel.

12 Accordingly, for the foregoing reasons, IT IS HEREBY ORDERED that:

13 1. Ms. Jessica Juarez motion to withdraw as plaintiff's appointed counsel (Dkt.
14 No. 84) is granted; Ms. Juarez is relieved immediately upon the filing of this order.

15 2. The Clerk of Court shall mail plaintiff a copy of this order.

16 3. Discovery closed in this action on December 16, 2011; the deadline for filing
17 dispositive motions is hereby extended to April 6, 2012.

18 SO ORDERED.

19 DATED: February 28, 2012

20
21 
22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

22 mont0800.withdraw.cns1

24 ¹ The court previously noted that "[t]his is a relatively straightforward Eighth
25 Amendment case," and "not the only action . . . in which the plaintiff does not speak English and
26 proceeds without counsel, instead relying on the assistance of another inmate. The filings of
litigants proceeding without counsel are scrutinized with care and, thus, there is no inherent
disadvantage to litigants proceeding in pro se, or without counsel." (Dkt. No. 53 at 13.)