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

MICHAEL SHUGERT,

No. CIV S-10-1679 FCD EFB PS

Plaintiff,

vs.

UNITED STATES OF AMERICA,

ORDER

Defendant.

_____ /
This case, in which plaintiff was originally proceeding *pro se*, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On June 30, 2010, plaintiff filed a complaint in this action and paid the filing fee. Dckt. No. 1. The same day, the court issued its initial scheduling order. Dckt. No. 3. Among other things, that order directed plaintiff to complete service of process within 120 days (*see* Federal Rule of Civil Procedure (“Rule”) 4(m)), set a scheduling conference for November 10, 2010, and directed the parties to file status reports at least fourteen days prior to the conference.

On November 2, 2010, because plaintiff had not filed a status report, as required by the June 30 order, and had not yet effected service of process on defendant, the undersigned issued an order continuing the status conference and directing plaintiff to show cause why this case should not be dismissed for failure to follow court orders and for failure to effect service of

1 process within the time prescribed by Rule 4(m). Dckt. No. 5.

2 On December 10, 2010, attorney Conal Doyle filed a notice of appearance on plaintiff's
3 behalf and a response to the November 2 order to show cause. Dckt. Nos. 6, 7. In the response
4 to the order to show cause, plaintiff's counsel indicated that his firm was recently retained to
5 represent plaintiff and apologized to the court for plaintiff's failure to file a status report. Dckt.
6 No. 7 at 2. The response also stated that service was effected on December 7, 2010. *Id.*

7 In light of plaintiff's counsel's response, the November 2 order to show cause will be
8 discharged. Additionally, because plaintiff is now represented by counsel, the referral to the
9 magistrate judge will be withdrawn and the case will be referred back to the district judge.
10 Therefore, the January 12, 2011 status (pretrial scheduling) conference currently scheduled
11 before the undersigned, Dckt. Nos. 3 and 5, will be vacated. The magistrate judge shall continue
12 to perform the usual discovery tasks associated with ordinary civil cases.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. The November 2, 2010 order to show cause is discharged;

15 2. The referral of this case to the magistrate judge is withdrawn and the case is referred
16 back to the district judge; and

17 3. The January 12, 2011 status (pretrial scheduling) conference before the undersigned,
18 Dckt. Nos. 3 and 5, is vacated.

19 SO ORDERED.

20 Dated: December 14, 2010.

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22 EDMUND F. BRENNAN
23 UNITED STATES MAGISTRATE JUDGE
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