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

ALFRED JAMES FOY,
Plaintiff,

No. 2:11-cv-3262-MCE-CMK-P

vs.

ORDER

VALLEJO POLICE DEPARTMENT,
Defendant.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.

On August 5, 2016, the undersigned issued findings and recommendations that this action be dismissed for plaintiff’s lack of prosecution and failure to comply with court rules and orders. Plaintiff failed to file his pretrial statement as ordered, and court orders sent to plaintiff were return as undeliverable. Plaintiff filed objections to the findings and recommendations stating that he was transferred to another facility and completed a notice of change of address, which he indicates may not have been received. He has now updated his address with the court, and indicates he wishes to proceed to trial. Accordingly, the findings and recommendations will be vacated, and this case will proceed.

1 However, this case is currently set for trial on November 14, 2016. Without
2 having received the pretrial statements, the court does not anticipate this matter being ready for
3 trial by that date. As such, the trial will be continued to January 23, 2017. The parties will be
4 required to file pretrial statements, as previously ordered, by the dates set forth below. Failure to
5 file a pretrial statement may result in appropriate sanctions, including dismissal of the entire
6 action. See Local Rule 110.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The Findings and Recommendations issued August 5, 2016, are vacated;
- 9 2. The trial date of November 14, 2016, is vacated, and the trial is continued
10 to January 23, 2017, at 9:00 a.m., before the Honorable Morrison C. England, Jr., in courtroom
11 #7, 14th Floor, United States District Court, Eastern District of California, 501 I Street,
12 Sacramento, California;
- 13 3. Plaintiff shall file and serve his pre-trial statement, and any motions
14 necessary to obtain the attendance of witnesses at trial, on or before November 21, 2016;
- 15 4. Defendants shall file their pre-trial statement on or before December 19,
16 2016;
- 17 5. A pre-trial conference, as described in Local Rule 282, shall be conducted
18 by the undersigned on the file only, without appearances, following submission pre-trial
19 statements; and
- 20 6. The Clerk of the Court is directed to send plaintiff a copy of the court's
21 June 8, 2016, order.

22
23 DATED: October 12, 2016

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25 **CRAIG M. KELLISON**
26 UNITED STATES MAGISTRATE JUDGE