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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JOHN PHILIP MONCRIEF,

No. 2:12-cv-0414 MCE AC P

12 Plaintiff,

13 v.

ORDER

14 CALIFORNIA DEPARTMENT OF
15 CORRECTIONS AND
REHABILITATION, et al.,

16 Defendants.
17

18 Plaintiff is a state prisoner proceeding with a civil rights action pursuant to 42 U.S.C. §
19 1983. On November 2, 2016, a closed hearing on plaintiff's counsels' motion to withdraw was
20 held before the undersigned.¹ ECF No. 99. Good cause appearing, the motion to withdraw will
21 be granted. As discussed, counsel shall, within twenty-four hours of the hearing, and prior to
22 their release from representation, mail plaintiff a letter further explaining the reasons for their
23 withdrawal contained in their August 2, 2016 letter to plaintiff. Counsel shall be released from
24 their representation of plaintiff forty-eight hours after the hearing, and plaintiff will be given sixty
25 days thereafter to retain another attorney to represent him in this case.

26 If no notice of appearance is filed by January 3, 2017, plaintiff shall proceed in pro se.

27 _____
28 ¹ Defendants' counsel was present, but was temporarily excused from the courtroom for
discussion involving attorney-client communications.

1 Plaintiff may request an extension of the 60 day period if he is making concrete progress toward
2 securing counsel. Any such request should be filed before the deadline expires. A request for
3 additional time must specify (1) how much additional time plaintiff wants, (2) what efforts
4 plaintiff has made to locate new counsel, and (3) the status of plaintiff's search and reasons why
5 additional time can be expected to result in representation by counsel (i.e. an attorney has
6 expressed interest in taking the case, plaintiff and counsel are discussing the terms of
7 representation, etc). An extension of time will be granted only if plaintiff appears to be close to
8 hiring new counsel.

9 In light of the court's ruling on the motion to withdraw, defendants' pending motion for
10 summary judgment (ECF No. 81) will be vacated. If counsel appears on plaintiff's behalf, the
11 court will issue an order setting a status conference to set a briefing schedule for a renewed
12 motion for summary judgment. If counsel does not appear for plaintiff within the sixty day
13 period, and plaintiff does not request an extension of time, an order will issue setting a deadline
14 for defendants' to file a renewed motion for summary judgment and briefing will proceed as set
15 forth in Local Rule 230(l).

16 Accordingly, IT IS HEREBY ORDERED that:

17 1. The motion to withdraw (ECF No. 93) is granted. Plaintiff's counsel, Kenneth N.
18 Frucht and Frederick J. Geonetta of Geonetta & Frucht, LLP, shall be released from their
19 representation of plaintiff effective forty-eight hours from the November 2, 2016 hearing.

20 2. Within twenty-four hours of the November 2, 2016 hearing, and prior to their release
21 from representation, either Mr. Frucht or Mr. Geonetta shall mail plaintiff a letter further
22 explaining the reasons for their withdrawal of representation.

23 3. Plaintiff shall have sixty days to locate and retain a new lawyer. If another attorney
24 has not filed a notice of appearance in this case by January 3, 2017, plaintiff shall continue to
25 proceed pro se.

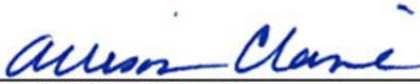
26 4. Defendants' motion for summary judgment (ECF No. 81) is VACATED. A further
27 order regarding renewed briefing will issue once the status of plaintiff's representation is
28 resolved.

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5. All other deadlines and dates are hereby VACATED.

6. The Clerk of the Court is directed to serve plaintiff with a copy of this order at Richard J. Donovan Correctional Facility, 480 Alta Road, San Diego, CA 92179.

DATED: November 2, 2016



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE