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

JASON LATRELL THOMAS,

No. 2:12-CV-0471-MCE-CMK-P

Plaintiff,

vs.

ORDER

TERRY, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are: (1) plaintiff’s motion for the appointment of counsel (Doc. 108); and (2) plaintiff’s motion for reassignment of this matter to a different Magistrate Judge (Doc. 109).

In his motion for the appointment of counsel, plaintiff states that he is not mentally competent to proceed on his own. In support, plaintiff provides a May 25, 2016, letter from Leonard Tauman of the Sacramento County Public Defender indicating that, based on a report by Dr. Cavanaugh, plaintiff was found incompetent to face criminal charges in state court. In particular, Mr. Tauman states that he expects the trial judge to “make arrangements to suspend the proceedings until your present sanity is restored.” It thus appears that, despite a finding in

1 May 2016 that plaintiff was not competent to face criminal charges, it was believed that  
2 plaintiff's competence could be restored. Plaintiff's current motion for the appointment of  
3 counsel will be denied without prejudice to renewal accompanied by evidence of plaintiff's  
4 current mental state and ability to proceed with this civil action on his own.

5 Plaintiff seeks reassignment of this action to a different Magistrate Judge.  
6 Because plaintiff has not allege any personal bias stemming from an extrajudicial source which  
7 could prevent a fair decision, plaintiff's request will be denied. See 28 U.S.C. § 144; see also  
8 Berger v. United States, 255 U.S. 22 (1922).

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Plaintiff's motion for the appointment of counsel (Doc. 108) is denied  
11 without prejudice; and

12 2. Plaintiff's motion for reassignment of this action (Doc. 109) is denied.  
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14 DATED: February 2, 2017

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16 **CRAIG M. KELLISON**  
17 UNITED STATES MAGISTRATE JUDGE  
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