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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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LINDSEY SHAMBERGER, as an
individual and on behalf of
her minor son, E.C.,

 Plaintiffs,

 v.

DANA TELLO,

 Defendant.

CIV NO.: 2:14-243 WBS DB

ORDER

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Plaintiffs Lindsey Shamberger and her minor son E.C. brought this action against Defendant Dana Tello, alleging that defendant conducted an unreasonable search of their residence in violation of their constitutional rights under 42 U.S.C. § 1983. (Compl. ¶ 9 (Docket No. 1).) Defendant moved for summary judgment or, alternatively, summary adjudication on September 30, 2016. (Def's Mot. (Docket No. 23).) After defendant filed the Motion, plaintiff Lindsey Shamberger agreed to be dismissed from

1 the action. (Docket No. 27.) The parties stated in a
2 stipulation that they intend "to effectuate the dismissal and/or
3 compromise of the claims of Plaintiff E.C." as well. (Docket No.
4 30 at 2.) To date, however, no dismissal has been filed for E.C.

5 No guardian ad litem was ever appointed or offered for
6 E.C. E.C. cannot proceed in this action by himself. See Fed. R.
7 Civ. P. 17(c)(2) ("The court must appoint a guardian ad litem--or
8 issue another appropriate order--to protect a minor . . . who is
9 unrepresented in an action."); Johns v. Cty. of San Diego, 114
10 F.3d 874, 877 (9th Cir. 1997) ("Because [plaintiff] is a minor,
11 he lacked the capacity to sue on his own."). Where no guardian
12 ad litem has been offered for a minor, the court may dismiss the
13 minor's case. See M. L. v. Barth, No. 14-CV-05423-LHK, 2015 WL
14 5785550, at *3 (N.D. Cal. Oct. 5, 2015) (dismissing action where
15 no guardian ad litem was offered for minor plaintiff); Watson v.
16 Cty. of Santa Clara, 468 F. Supp. 2d 1150, 1155 (N.D. Cal. 2007)
17 (same); L.S. ex rel. R.S. v. Panama Buena Vista Union Sch. Dist.,
18 No. 1:12-CV-00744 LJO, 2012 WL 3236743, at *2 (E.D. Cal. Aug. 6,
19 2012) ("[T]he matter will not proceed unless/until the child is
20 properly appointed a guardian ad litem."). Accordingly, the court
21 will dismiss E.C. from this action.

22 Because no plaintiff remains in this action, the court
23 will deny defendant's Motion as moot.

24 IT IS THEREFORE ORDERED that this action be, and the
25 same hereby is, DISMISSED without prejudice;

26 AND IT IS FURTHER ORDERED that defendant's Motion for
27 summary judgment or, alternatively, summary adjudication (Docket
28 No. 23) be, and the same hereby is, DENIED AS MOOT.

1 Dated: November 23, 2016



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3 WILLIAM B. SHUBB
4 UNITED STATES DISTRICT JUDGE
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