

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL J. MITCHELL,  
Plaintiff,  
v.  
SNOWDEN, et al.,  
Defendants.

No. 2:15-cv-1167 TLN AC P

ORDER

This case is before this court on remand from the Ninth Circuit Court of Appeals. On November 1, 2017, the Court of Appeals vacated this court’s judgment dismissing this case on statute of limitations grounds, and remanded for further proceedings on the question whether plaintiff Mitchell’s mental illness and multiple prison transfers warrant equitable tolling. See ECF No. 43 (Ninth Circuit’s Memorandum opinion in Case No. 16-16848). The Court of Appeals affirmed this court’s finding that plaintiff is not entitled to statutory tolling. The Court of Appeals also directed this court to “reevaluate whether counsel should be appointed in light of Mitchell’s mental illness and medical conditions.” Id. at 2. The Court of Appeals’ Mandate issued on November 24, 2017.

By separate order, this court has appointed attorney Donald A. Lancaster, Jr. to represent plaintiff in further proceedings before this court. Defendants continue to be represented by the Office of the California Attorney General.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

In light of the procedural posture of the case, IT IS HEREBY ORDERED that:

1. A status conference is scheduled before the undersigned on Wednesday, January 17, 2018, at 10:00 a.m., in Courtroom No. 26. Counsel for the parties may appear telephonically and, if they intend to do so, shall timely make appropriate arrangements with the undersigned's Courtroom Deputy, Valerie Callen, at 916-930-4199.

2. At the status conference, counsel shall be prepared to address the scope and timing of supplemental briefing on the equitable tolling issue, and whether an evidentiary hearing is appropriate.

IT IS SO ORDERED.

DATED: November 27, 2017

  
\_\_\_\_\_  
ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE