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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM HACKNEY,
Plaintiff,
v.
CALIFORNIA HEALTH CARE
FACILITY, et al.,
Defendant.

No. 2:15-cv-2160 JAM DB P

ORDER

Plaintiff is a state prisoner proceeding with a civil rights action under 42 U.S.C. § 1983. Plaintiff contends defendants were deliberately indifferent to his serious medical needs. In recent filings, plaintiff has asserted that attorney Timothy McCandless, who filed a third amended complaint on plaintiff’s behalf in August 2016, does not represent plaintiff. By this order, the court will permit Mr. McCandless an opportunity to explain his appearance on plaintiff’s behalf and plaintiff an opportunity to respond.

Before reviewing the background of this case, the court wants to reassure plaintiff that this case is still proceeding. In a recent filing, entitled a “motion for ‘Rand Warning,’” plaintiff makes statements indicating that he believes this case has been dismissed. (See ECF No. 36.) It has not. The status of these proceedings is discussed below.

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1 Plaintiff filed his original complaint on September 21, 2015. On screening, the court found
2 that plaintiff had failed to plainly and succinctly allege facts supporting his claims and had failed
3 to show how each defendant was involved in the deprivation of his rights. (ECF No. 12.)

4 Plaintiff was given an opportunity to amend his complaint.

5 On January 13, 2016, plaintiff filed a first amended complaint. (ECF No. 17.) The court
6 recognized that plaintiff appeared to be making a claim regarding the insertion of a foley catheter
7 in plaintiff by prison medical staff in December 2013 that caused injuries to plaintiff's bladder,
8 urethra, and other internal organs. However, the court again found that plaintiff failed to make
9 specific allegations about how each defendant was involved in a deprivation of his rights. The
10 court set out the Eighth Amendment standards for alleging a claim of deliberate indifference
11 based on medical care and gave plaintiff the opportunity to file a second amended complaint.
12 (ECF No. 19.)

13 In May 2016, plaintiff requested an extension of time to file a second amended complaint.
14 (ECF No. 23.) Plaintiff explained that he had "contacted and employed" attorney Jerome Clay of
15 Stockton, California. The court granted an extension of time. (ECF No. 28.)

16 On August 11, 2016, plaintiff, acting in pro per, filed a second amended complaint. (ECF No.
17 32.) Three days later, on August 14, 2016, attorney Timothy McCandless of Stockton,
18 California,¹ filed a third amended petition on plaintiff's behalf. (ECF No. 33.) Therein, counsel
19 sets out in more detail claims regarding plaintiff's medical care when he was treated for a urinary
20 tract infection in December 2013.

21 In filings with the court in November and December 2016, and January 2017, plaintiff
22 contends that Mr. McCandless does not represent him and that he had no knowledge that Mr.
23 McCandless had filed a complaint on his behalf until he received a copy of the docket in this case
24 on October 19, 2016. (See ECF Nos. 36, 37, 38.)

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27 ¹ While Mr. McCandless provided a Stockton address on the third amended complaint, his
28 address is identified on the docket as being in Capistrano Beach, California.

1 In order to determine the status of plaintiff's representation, and in order to determine whether
2 this case is proceeding on the second amended complaint filed by plaintiff in pro per or the third
3 amended complaint filed by Mr. McCandless, IT IS HEREBY ORDERED as follows:

- 4 1. Within twenty days of the filed date of this order, Mr. McCandless shall file a statement
5 explaining why he entered an appearance on plaintiff's behalf in this action;
- 6 2. Mr. McCandless shall serve a copy of that statement on plaintiff;
- 7 3. Within twenty days of the date of service of Mr. McCandless's statement, plaintiff may
8 file a response; and
- 9 4. The Clerk of the Court is directed to serve a copy of this order on plaintiff.

10 Dated: March 3, 2017

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14 DEBORAH BARNES
15 UNITED STATES MAGISTRATE JUDGE
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18 DLB:9
19 DLB1/prisoner-civil rights/hack2160.atty
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