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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA and  
FUKEKILA MERRIDA, Revenue  
Officer,

Petitioners,

v.

THEODORE PADUA,

Respondent.

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No. C 08-3714 WDB

ORDER RE-SETTING HEARING ON  
DEFENDANT'S MOTION RE  
JURISDICTION

On December 10, 2008, at 3:00 p.m., the undersigned attempted to hold a hearing on Pro Se Defendant Theodore Padua's "Notice and Demand for A Definite Statement of Allegation of *Bona Fide* Jurisdiction." Mr. Thomas Moore appeared as counsel for the United States. The Court waited until approximately eight minutes after three o'clock to begin the hearing, but Mr. Padua, representing himself in the matter, did not appear. Accordingly, the Court discussed briefly the merits of the Motion and entered on the record a report and recommendation to the District Court.<sup>1</sup>

At approximately 3:35 p.m. on December 10, 2008, Mr. Padua appeared for the hearing. By this time, the hearing had ended, the undersigned no longer was on the bench, and Mr. Moore had departed and could not be reached to return. Mr. Padua explained to a member of the undersigned's staff that he was late because he mistakenly appeared in a courtroom on the fourth floor of the Courthouse, instead of appearing in the undersigned's courtroom on the third floor.

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<sup>1</sup> This court entered a report and recommendation and was preparing to Order a reassignment to a District Judge because, absent consent of all parties, a Magistrate Judge does not have authority to make case-dispositive rulings. *See, e.g., Tripati v. Rison*, 847 F.2d 548 (9th Cir. 1988).

1           Because it appears that Mr. Padua made a good faith attempt to attend the hearing, the  
2 undersigned now VACATES the report and recommendation made on the record and ORDERS  
3 that Mr. Moore and Defendant appear for a hearing on Defendant's Motion on **January 21,**  
4 **2009, at 4:00 p.m.,** in Courtroom 4, **3rd Floor**, United States Courthouse, 1301 Clay Street,  
5 Oakland, California 94612.

6           **By no later than December 22, 2008,** Defendant must send to Mr. Moore at the United  
7 States Attorney's Office, 450 Golden Gate Avenue, San Francisco, CA 94102, a letter explaining  
8 why he was more than thirty minutes late for the hearing of December 10, 2008.

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10 Dated:    December 11, 2008

  
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WAYNE D. BRAZIL  
United States Magistrate Judge

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