

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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4
5 OLLIE EUGENE DUNLAP III,

6 Plaintiff,

7 v.

8 UNITED STATES OF AMERICA,

9 Defendant.

NO. C11-1276 TEH

ORDER GRANTING
PLAINTIFF'S COUNSEL'S
MOTION TO WITHDRAW;
ORDER TO SHOW CAUSE

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11 This matter came before the Court on August 27, 2012, on Robert Breecker's motion
12 to withdraw as counsel for Plaintiff Ollie Eugene Dunlap III. Breecker has filed two
13 substitutions of counsel, dated March 5 and June 14, 2012, in which Dunlap apparently
14 intended to substitute himself as counsel and proceed pro se. It is not clear to the Court that
15 Dunlap understands what it means to proceed without counsel, and the Court intended to
16 discuss this issue with him at the August 27 hearing. However, despite being ordered to
17 appear personally by the Court's July 17, 2012 order, Dunlap failed to do so.

18 At the hearing, Breecker stated that he had not heard from Dunlap since filing his
19 motion to withdraw on July 11, 2012. Moreover, counsel has declared that Dunlap breached
20 his fee agreement by failing to deposit funds for costs. Breecker Decl. ¶ 4. The Court
21 therefore finds good cause to GRANT Breecker's motion. *See, e.g.*, Cal. Rules of Prof'l
22 Conduct 3-700(C)(1)(d) (allowing counsel to withdraw if the client "renders it unreasonably
23 difficult for [counsel] to carry out the employment effectively") & 3-700(C)(1)(f) (allowing
24 withdrawal if the client "breaches an agreement or obligation to [counsel] as to expenses or
25 fees"). Because the Court remains uncertain whether Dunlap fully understands what it
26 means to proceed pro se, Breecker's withdrawal is conditional, and papers shall "continue to
27 be served on counsel for forwarding purposes, unless and until the client appears by other
28 counsel or pro se." Civ. L.R. 11-5(b). Dunlap may appear pro se only by filing a document

1 directly with the Court; the Court will not accept a document filed by Breecker as an
2 appearance by Dunlap. Breecker shall mail a copy of this order to Dunlap and file a proof of
3 service with the Court no later than **August 31, 2012**.

4 In addition, Dunlap is HEREBY ORDERED TO SHOW CAUSE as to why this case
5 should not be dismissed. If Dunlap does not file a written response to this order on or before
6 **October 1, 2012**, this case will be dismissed for failure to prosecute. If he needs assistance
7 on how to file a document with the Court, he may consult the Court's website at
8 <http://www.cand.uscourts.gov/proselitigants> or contact the Legal Help Center, operated by
9 the Volunteer Legal Services Program of the Bar Association of San Francisco, at
10 (415) 782-9000, extension 8657.

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12 **IT IS SO ORDERED.**

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14 Dated: 08/27/12



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT