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

NOVENA TUCKER,

Plaintiff,

v.

DONALD GILL, et al.,

Defendant.

NO. C12-2678 TEH

ORDER RE JANUARY 28
HEARING

11 The parties shall come prepared to address the following questions at the January 28,
12 2013 hearing on Plaintiff's motion to amend her complaint:

- 13 (1) What was Detective Green's role in the police reporting/investigating?
14 (2) You failed to cite *Beck v. City of Upland*, 527 F.3d 853 (9th Cir. 2008), in your
15 papers. How does *Beck's* interpretation of *Smiddy v. Varney*, 665 F.2d 261, 266-68
16 (9th Cir. 1981), affect this Court's analysis?
17 (3) Can the Court decide whether Plaintiff will be able to overcome the presumption of
18 prosecutorial independence based on the allegations alone and prior to any discovery?
19 (4) Even if we assume that Green knew that Plaintiff's son was not expelled from school
20 and that his statement about whether Plaintiff would have carried out her threats
21 against Madrigal was therefore based on a false premise, how is that enough to
22 overcome the presumption of prosecutorial independence?

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24 **IT IS SO ORDERED.**

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26 Dated: 1/24/13

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THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT