

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Murillo v. Holland

Murillo · No. 1:15-cv-0266-DC-SCR · Decided May 21, 2025

SUMMARY

The Eastern District of California denied without prejudice a state prisoner’s motion for a bench trial and/or settlement conference and motion for appointment of counsel. The court held that defendants’ notice of appeal from an order denying qualified immunity divested the district court of jurisdiction over matters subsumed within the appeal.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JOAQUIN MURILLO, No. 1:15-cv-0266-DC-SCR 12 Plaintiff, 13 v.
ORDER 14 K. HOLLAND, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding
without counsel in this civil rights action filed 18 pursuant to 42 U.S.C. § 1983. Plaintiff filed a
motion for a bench trial and/or a settlement 19 conference in this case along with a request for the
appointment of counsel.

ECF No. 163. 20 Before the court could rule on plaintiff’s pending motion, defendants Holland
and Gutierrez filed 21 a notice of appeal of the court’s December 5, 2024 order denying them
qualified immunity. ECF 22 No. 164. Based on the pending appeal, defendants filed an opposition
to plaintiff’s motion for a 23 trial and/or settlement conference. ECF No. 167.

24 The filing of defendants’ notice of appeal automatically divests the court of jurisdiction to 25
proceed to trial on the issues subsumed within the appeal. See *Griggs v. Provident Consumer* 26
Discount Co., 459 U.S. 56, 58 (1982) (stating that “[t]he filing of a notice of appeal is an event of
27 jurisdictional significance—it confers jurisdiction on the court of appeals and divests the
district 28 court of its control over those aspects of the case involved in the appeal.”).

Therefore, the court 1 | lacks jurisdiction to grant plaintiff the requested relief. 2 Accordingly, IT
IS HEREBY ORDERED that: 3 1. Plaintiff’s motion for a bench trial and/or a settlement
conference (ECF No. 163) is 4 || denied without prejudice to renewal following the resolution of
the pending appeal. 5 2. Plaintiff’s motion for the appointment of counsel (ECF No. 163) is denied
without 6 || prejudice.

7 || DATED: May 21, 2025 md ° SEAN C. RIORDAN 10 UNITED STATES MAGISTRATE
JUDGE 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

