



1 hearing from the parties, the Court took the matter under advisement. The Court allowed  
2 Plaintiff to file an additional motion to present new evidence (see Dkt. 146 - Order).

3 On April 5, 2010, Plaintiff pro se filed a Motion/Response to Comply with the Court  
4 Order (Dkt. 147) and a Motion to Present New Medical Evidence (Dkt. 148). On April 19,  
5 2010, Defendants filed a Response (Dkt. 149) to these motions. On May 10, 2010, Plaintiff  
6 pro se filed a Response/Reply (Dkt. 150).

7 By way of background regarding the parties' settlement and the dismissal of this case,  
8 on September 25, 2009, Defendants filed a Notice of Settlement (Dkt. 133). A Stipulation  
9 for Dismissal with Prejudice of Arizona Defendants was filed on October 7, 2009 (Dkt. 134).  
10 The Stipulation for Dismissal was signed by Plaintiff pro se and the Attorney for the Arizona  
11 Defendants, that is, the remaining defendants in the case.

12 A hearing was held on October 28, 2009 regarding the proposed settlement and  
13 dismissal. Plaintiff pro se and counsel for Defendants appeared by telephone at the hearing.  
14 As was discussed at this hearing, on September 2, 2009, Plaintiff pro se filed a Notice of  
15 Civil Commitment (Dkt. 132). Plaintiff informed the Court in this Notice that on June 25,  
16 2009, an Arizona state court had issued an Order committing Plaintiff to the Arizona  
17 Community Protection and Treatment Program within the Arizona State Hospital, and that  
18 Plaintiff was to remain within this treatment program for at least 18 months or until a  
19 discharge order issues. During the October 28<sup>th</sup> hearing, the Court inquired of Plaintiff  
20 regarding his understanding of the settlement and that the case would be dismissed. Plaintiff  
21 told the Court that he had received \$500 in settlement and wanted to go ahead with the  
22 settlement.

23 On October 29, 2009, the Court filed an Order (Dkt. 137 - Order) dismissing the case  
24 with prejudice as to all claims asserted in the Amended Complaint against the remaining  
25 Defendants. The Court found, pursuant to discussions at the October 28, 2009 hearing, that  
26 Plaintiff had knowingly and voluntarily entered into a settlement and understood that the case  
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1 would be dismissed with prejudice. A Judgment of Dismissal was filed on October 29, 2009  
2 (Dkt. 139 - Amended Judgment).

3 In his Motion for Reconsideration and to Withdraw (Dkt. 140) filed on November 5,  
4 2009, Plaintiff contends that he made an “irrational” decision to settle the case for \$500  
5 because he owed taxes to Pima County. Plaintiff says he has mental disorders and suffers  
6 from depression. Plaintiff has offered to repay the \$500 he received in the settlement.

7 In his Motion to Present New Evidence (Dkt. 144) filed on February 18, 2010,  
8 Plaintiff alleges that since his assault by another inmate, he has had difficulty breathing  
9 through his left nostril. Plaintiff has been examined by a specialist and been informed that  
10 surgery is required to correct the damage allegedly caused by the inmate assault. Plaintiff  
11 lists his address as the Arizona State Hospital.

12 In his Motion/Response to Comply with the Court Order (Dkt. 147) filed on April 5,  
13 2010, Plaintiff alleges that taxes are due on his residence located in Pima County. Plaintiff  
14 alleges that the residence is currently vacant and unable to be rented due to a fire that  
15 damaged the home three years ago. Plaintiff claims he is unable to pay an electrician to  
16 repair the damage. Plaintiff alleges he is currently taking specific medication for depression,  
17 and that he was not taking these medications when he entered into the settlement agreement  
18 with Defendants. Plaintiff contends he has difficulty breathing.

19 In his Motion to Present New Medical Evidence (Dkt. 148) filed on April 5, 2010,  
20 Plaintiff realleges that since he was assaulted by another inmate, he has had difficulty  
21 breathing in his left nostril, and that a medical specialist has recommended surgery to correct  
22 the damage. Plaintiff alleges that the State refuses to pay for this corrective surgery.

23 Defendants argue in their Response filed on April 19, 2010 (Dkt. 149) that Plaintiff  
24 initiated the settlement negotiations in September 2009, the parties conferred and agreed to  
25 settle this case, and that Defendants paid Plaintiff the agreed-upon amount. Plaintiff  
26 allegedly has spent the settlement proceeds. Defendants argue that Plaintiff’s medical records  
27 show he received medications for allergies in December 2009 and that he received depression  
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1 medications starting in January and February 2010, months after he asked the Court to vacate  
2 the settlement agreement and reopen the case. Defendants argue that Plaintiff attributes his  
3 breathing issues to an assault by other inmates but offers no medical evidence to support this  
4 conclusion. Defendants argue that Plaintiff has been confined to the Arizona State Hospital  
5 for treatment as a sexually violent person under A.R.S. § 36-3701, not because of his lack  
6 of competence. Defendants argue that the claim Plaintiff asserted in his First Amended  
7 Complaint regarding an alleged assault by other inmates in February 2005 that forms the  
8 basis for his alleged nose injury was dismissed by the Court. Defendants argue that Plaintiff  
9 represented to the Court during the hearing that he was aware and able to make the decision  
10 to settle the case.

11 In his Response/Reply (Dkt. 150), Plaintiff objects to Defendants' Response as not  
12 authorized by the Court's Order. Plaintiff has asserted further information bearing on his  
13 mental state, contending that he has struggled with "mental issues" since high school,<sup>1</sup> he  
14 remains under the care of a psychiatrist, and that he does not have the protection of  
15 representation by an attorney. Plaintiff says his medications are issued on a month-to-month  
16 basis and renewed every three months. Plaintiff contends that during settlement discussions  
17 he requested \$55,000 in damages but Defendants used his state of mind to their advantage  
18 in settling the case for a lesser amount. Plaintiff says he did not request reconsideration until  
19 after he had talked with his primary therapist and psychiatrist who diagnosed him with  
20 depression and other non-specified conditions, and that he was suffering from depression and  
21 other mental conditions that impaired his ability to enter into the agreement with Defendants.  
22 Plaintiff says he used the settlement money to pay taxes owed to Pima County.

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25 <sup>1</sup>Plaintiff has submitted with his Response/Reply a Secondary School Record that  
26 shows the "Student Identification" name as "St. Laurent, Ronald" (Dkt. 150, page 7), an  
27 "also known as" name for Plaintiff (see Dkt. 142 - Attachments). Plaintiff contends he  
28 struggled with his grades in college and appears to say he had an average of "2.8" which he  
says was below the normal for a college student (Dkt. 150 at page 2).

1 Under LRCiv 7.2(g)(2), Local Rules of Practice for the District of Arizona, any  
2 motion for reconsideration shall be filed no later than fourteen (14) days after the date of the  
3 filing of the Order that is the subject of the motion, absent good cause shown. Plaintiff's  
4 Motion for Reconsideration and to Withdraw was filed within this time period. Pursuant to  
5 LRCiv 7.2(g)(1), the Court "will ordinarily deny a motion for reconsideration of an Order  
6 absent a showing of manifest error or a showing of new facts or legal authority that could not  
7 have been brought to its attention earlier with reasonable diligence."

8 The Court has reviewed the record and considered the arguments of the parties.

9 In Count I of Plaintiff's First Amended Complaint, Plaintiff alleged a claim for  
10 violation of the Eighth Amendment, contending that he had been physically assaulted by  
11 another inmate in February 2005 (Dkt. 45 - First Amended Complaint). Plaintiff alleged  
12 damage to his nose, swollen nose facial area, headaches, and trouble breathing through his  
13 nose (*id.*). In an Order (Dkt. 131 - Order) filed on September 2, 2009, the Court granted  
14 Defendants' Motion for Judgment on the Pleadings as to Defendant Anderson and further,  
15 dismissed Count I because Defendant Anderson was the only Defendant named as to Count  
16 I (Order at 6-7). None of Plaintiff's surviving claims asserted in the First Amended  
17 Complaint concerned the alleged inmate assault or physical injury to Plaintiff's nose.

18 The Court inquired of Plaintiff regarding the settlement agreement and the resulting  
19 dismissal of the case during the October 28, 2009 hearing. Plaintiff informed the Court that  
20 he desired to proceed with the settlement. Plaintiff's confinement in the Arizona State  
21 Hospital appears based on Plaintiff's alleged mental disorder related to sexual violence (see  
22 Dkt. 142 - Attachments), and is not related to any alleged lack of competence. Plaintiff's  
23 alleged mental issues appear to have been on-going for some time prior to his entry into the  
24 settlement agreement with Defendants. Plaintiff has received the agreed-on settlement  
25 amount and has spent the proceeds. Plaintiff makes no claim that he has the ability to repay  
26 the settlement amount or that Defendants breached the settlement agreement. Plaintiff's  
27 asserted grounds, including the subsequent circumstances regarding the taxes due on his

1 property and his alleged diagnosis of depression, do not establish manifest error or new facts  
2 that warrant reconsideration.

3 The Court will grant Plaintiff's Motion to Present New Evidence (Dkt. 144),  
4 Motion/Response to Comply with the Court Order (Dkt. 147), and Motion to Present New  
5 Medical Evidence (Dkt. 148) so that the record is complete regarding the information  
6 Plaintiff has submitted in support of his Motion for Reconsideration and to Withdraw (Dkt.  
7 140).

8 Plaintiff's Motion for Reconsideration and to Withdraw (Dkt. 140) will be denied.

9 Accordingly,

10 **IT IS ORDERED** that Plaintiff's Motion to Present New Evidence (Dkt. 144),  
11 Motion/Response to Comply with the Court Order (Dkt. 147), and Motion to Present New  
12 Medical Evidence (Dkt. 148) are granted to the extent that the record is shown as complete  
13 regarding the information Plaintiff has submitted in support of his Motion for  
14 Reconsideration and to Withdraw (Dkt. 140).

15 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Reconsideration and to  
16 Withdraw (Dkt. 140) is denied.

17 DATED this 24<sup>th</sup> day of May, 2010.

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21 Earl H. Carroll  
22 United States District Judge  
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