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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DONALD R. LEACH,

1:00-cv-06139-LJO-GSA PC

Plaintiff,

ORDER DENYING PLAINTIFF'S MOTION
TO COMPEL AS MOOT

vs.

(Doc. 129.)

TOM CAREY, T. DREW,
D. SCHROEDER, and HAWS,

Defendants.

I. BACKGROUND

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Donald R. Leach (“Plaintiff”), a state prisoner proceeding pro se. Plaintiff is presently incarcerated at the Kern Valley State Prison in Delano, California. Plaintiff filed the Complaint commencing this action on August 2, 2000. (Doc. 1.) On December 17, 2010, Plaintiff and Defendants participated in settlement proceedings before Magistrate Judge Jennifer L. Thurston, and the case was settled. (Doc. 125.) On January 3, 2011, the case was dismissed, with prejudice, pursuant to the parties' stipulation. (Doc. 127.)

On June 7, 2011, Plaintiff filed a motion to compel Defendants to honor the confidential settlement agreement. (Doc. 129.) On June 24, 2011, Defendants filed an opposition to Plaintiff's motion. (Doc. 130.) Plaintiff has not filed a reply.

1 **II. PLAINTIFF'S MOTION**

2 Plaintiff moves the court for an order compelling Defendants to honor the confidential
3 settlement agreement. Plaintiff asserts that as of May 31, 2011, Defendants had not paid the
4 agreed-upon settlement amount.

5 In opposition, Defendants argue that on June 3, 2011, the settlement funds were deposited
6 into Plaintiff's trust account, well within the time allotted under the settlement agreement.

7 Defendants have provided a copy of Plaintiff's Inmate CDCR Transaction List showing financial
8 transactions from December 7, 2010 to June 21, 2011, containing an entry on June 3, 2011 of an
9 Inmate Deposit in the amount of \$5,000. (Doc. 130, Exh. A.)

10 Defendants have provided evidence that the settlement funds have been paid. In light of
11 the fact that more than forty-five days have passed and Plaintiff has not responded to Defendants'
12 opposition or evidence, the Court finds good cause to deny Plaintiff's motion as moot.

13 **III. CONCLUSION**

14 Accordingly, good cause appearing, IT IS HEREBY ORDERED that Plaintiff's motion to
15 compel, filed on June 7, 2011, is DENIED as moot.

16
17 IT IS SO ORDERED.

18 **Dated: August 11, 2011**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE