

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

JUAN RADILLO,) NO. 1:04-cv-05353-GSA-PC
Plaintiff,) ORDER DIRECTING PLAINTIFF TO
v.) ADVISE THE COURT REGARDING
M. CHAMALBIDE,) HIS INTENTION TO PROCEED
Defendant.) WITH THIS ACTION
RESPONSE DUE IN THIRTY DAYS

Plaintiff is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. The parties have consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1).

On May 24, 2010, Plaintiff filed a Notice of Voluntary Dismissal. In his notice, Plaintiff indicates that he is no longer able to litigate this case. Specifically, Plaintiff indicates that it is “beyond his means” to produce witnesses, and his lack of resources renders him unable to litigate this case. Defendant has filed a Statement of Non-Opposition.

Plaintiff titles his notice as a “Motion To Dismiss Without Prejudice; Request For Settlement Intervention.” Plaintiff indicates that “this case can easily be resolved by a settlement conference, mediated by the Court, which is what Plaintiff would prefer.” Absent a request by both parties, the Court is not inclined to schedule a settlement conference. Plaintiff is further advised that once this case is dismissed, the Clerk will close the case, and there will be no

1 further case or controversy. Therefore, there will no longer be a dispute that the Court can
2 mediate. The Court will not dismiss this action contingent upon the setting of a settlement
3 conference.

4 Further, on April 21, 2010, an order to show cause was entered, directing Plaintiff to
5 show cause within thirty days why this action should not be dismissed pursuant to Local Rule
6 110 for Plaintiff's failure to file a status report. Plaintiff has failed to file a status report in
7 response to the order to show cause. Should Plaintiff desire to proceed with this action, he must
8 file a status report in accordance with the order of February 19, 2010. The Court will grant
9 Plaintiff an extension of time in which to notify the Court regarding his intention to proceed with
10 this action. Plaintiff is again advised that should he desire to dismiss this action on his own
11 motion, the Court will not schedule a settlement conference. If Plaintiff still wants to dismiss
12 this action, he should so inform the Court. Should Plaintiff fail to respond to this order, this
13 action will be dismissed without prejudice pursuant to Local Rule 110.

14 Accordingly, IT IS HEREBY ORDERED that Plaintiff shall, within thirty days of the
15 date of service of this order, file either a status report or a notice of voluntary dismissal. Should
16 Plaintiff fail to respond to this order, this action will be dismissed without prejudice pursuant to
17 Local Rule 110 for Plaintiff's failure to prosecute.

18
19
20 IT IS SO ORDERED.

21 Dated: June 11, 2010

22 /s/ Gary S. Austin
23 UNITED STATES MAGISTRATE JUDGE
24
25
26
27
28