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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DONALD J. ACKLEY,

Plaintiff,

v.

D. CARROLL, et al.,

Defendants.

CASE NO. 1:06-cv-00771-AWI-BAM PC

ORDER DENYING MOTION TO ENFORCE
SETTLEMENT AGREEMENT

(ECF No. 115)

Plaintiff Donald J. Ackley (“Plaintiff”) is a state prisoner who was proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On August, 8, 2012, the parties participated in a settlement conference before the undersigned. The parties reached an agreement and placed the settlement terms on the record. Thereafter, on August 17, 2012, the parties submitted a signed stipulation to dismiss the action with prejudice. Pursuant to that stipulation, the Court dismissed the action with prejudice on August 21, 2012.

On December 19, 2012, Plaintiff filed the instant motion to enforce the settlement agreement. Doc. 115. In the motion, Plaintiff asserted that he had not received payment of settlement funds as of December 17, 2012. Plaintiff also claimed that he would reject the settlement agreement and proceed to trial if he did not receive double the amount of settlement funds by December 24, 2012.

On December 20, 2012, Defendants filed an opposition to Plaintiff’s motion to enforce the settlement. Doc. 116. In the opposition, Defense counsel indicated the following: (1) payment of the settlement funds was to be made within 180 days of the settlement agreement; and (2) the State Controller’s Office issued payment on or about December 7, 2012, with Plaintiff to receive the funds

1 within two weeks of that date, less any outstanding restitution obligations and related administrative
2 fees.

3 Based on the representations of defense counsel, Defendants have made payment of the
4 settlement funds in accordance with the terms of the settlement agreement and there is no basis for
5 this Court to intervene. Accordingly, Plaintiff's motion to enforce the settlement agreement is
6 HEREBY DENIED without prejudice.

7 IT IS SO ORDERED.

8 **Dated: December 27, 2012**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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