

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DENIS K. ROTROFF,

Plaintiff,

v.

JIM ROBINSON, et al.,

Defendants.

CASE NO. 1:06-CV-01419-LJO-DLB PC

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING PLAINTIFF’S MOTION  
TO DISMISS BE GRANTED

(DOC. 69)

OBJECTIONS, IF ANY, DUE WITHIN  
FOURTEEN (14) DAYS

\_\_\_\_\_ /

**Findings And Recommendations**

Plaintiff Denis K. Rotroff (“Plaintiff”) is a civil detainee in the custody of the California Department of Mental Health. Plaintiff is proceeding pro se and in forma pauperis in this civil rights action. This action was proceeding against Defendants Ben McClain, Jim Robinson, G. Dieke, Charles Rabout, Sharon Rogers, and Mendoza. On February 25, 2011, notice of settlement was filed. Pending before the Court is Plaintiff’s motion to dismiss this action, filed April 15, 2011. Doc. 69. The Defendants have filed no response.

The parties’ settlement agreement was as follows: Defendants paid Plaintiff a specified amount of money, and Plaintiff agreed to dismiss this action. The record reflects that Defendants have complied with the terms of the settlement. *See* Defs.’ Response, Doc. 59. The Court construes Defendants’ non-response as a waiver of opposition to Plaintiff’s motion to dismiss. There does not appear to be any reason why this action should not be closed.

1 Accordingly, it is HEREBY RECOMMENDED that:

- 2 1. Plaintiff's motion to dismiss, filed April 15, 2011, be GRANTED;
- 3 2. This action be dismissed with prejudice; and
- 4 3. The parties are to bear their own attorney's fees and costs.

5 These Findings and Recommendations will be submitted to the United States District  
6 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen**  
7 **(14) days** after being served with these Findings and Recommendations, the parties may file  
8 written objections with the Court. The document should be captioned "Objections to Magistrate  
9 Judge's Findings and Recommendations." The parties are advised that failure to file objections  
10 within the specified time may waive the right to appeal the District Court's order. *Martinez v.*  
11 *Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

12 IT IS SO ORDERED.

13 Dated: June 1, 2011

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE