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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

FLOYD SCOTT,

Plaintiff,

v.

J. PALMER, et al.,

Defendants.

CASE NO. 1:09-cv-01329-LJO-SKO PC

ORDER STRIKING PLAINTIFF’S UNTIMELY  
OBJECTION

(Doc. 72)

Plaintiff Floyd Scott, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 29, 2009. This action is proceeding against Defendants Palmer, Rivera, and Lopez on Plaintiff’s claim that while he was at Kern Valley State Prison in Delano, California, Defendant Palmer used excessive physical force against him and Defendants Rivera and Lopez failed to intervene, in violation of his rights under the Eighth Amendment of the United States Constitution.

On March 19, 2012, the Court issued an order adopting the Magistrate Judge’s findings and recommendations; granting in part and denying in part Defendants’ motion for summary judgment; and staying the action pending the settlement conference set for April 20, 2012. On the same day, Plaintiff filed an objection.

The deadline for filing an objection was March 12, 2012, Fed. R. Civ. P. 6(a),(d), and Plaintiff’s objection, which was served by mail on March 15, 2012, was untimely even with the application of the prison mailbox rule, Douglas v. Noelle, 567 F.3d 1103, 1107 (9th Cir. 2009). Therefore, the objection shall be stricken from the record.

1 Plaintiff is not precluded from filing a motion for reconsideration, which is the proper vehicle  
2 for seeking relief under these circumstances. Fed. R. Civ. P. 60(b); Local Rule 230(j). However,  
3 this action is currently stayed. The stay remains in effect and any filings submitted while the stay  
4 is in place will be stricken from the record. If this case does not settle, Plaintiff may seek appropriate  
5 relief once he receives an order from the Court lifting the stay.

6 For the reasons set forth herein, Plaintiff's untimely objection is HEREBY STRICKEN from  
7 the record.

8  
9 IT IS SO ORDERED.

10 **Dated: March 21, 2012**

**/s/ Lawrence J. O'Neill**  
**UNITED STATES DISTRICT JUDGE**