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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAMONT SHEPARD,

Plaintiff,

v.

R. PEREZ, et al.,

Defendants.

CASE NO. 1:10-cv-00023-BAM PC

ORDER DENYING PLAINTIFF’S MOTIONS
FOR SETTLEMENT CONFERENCE
WITHOUT PREJUDICE

(ECF Nos. 69, 74)

Plaintiff Lamont Shepard (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s complaint Defendants L.A. Martinez, R. Perez, P. Garcia, J. Soto, E. De la Cruz and A Trevino for excessive force in violation of the Eighth Amendment. A telephonic trial confirmation hearing is set for March 15, 2013, and a jury trial is set for May 6, 2013.

On November 29, 2012, Plaintiff filed a motion requesting a settlement conference. (ECF No. 69.) Defendants did not respond. On January 28, 2013, Plaintiff filed a second motion requesting a settlement conference. (ECF No. 74.) On January 30, 2013, the Court ordered Defendants to respond to Plaintiff’s motions and notify the Court whether they believed, in good faith, that settlement in this case was a possibility and whether they were interested in having a settlement conference scheduled by the Court.

On February 13, 2013, Defendants filed a response stating that they were willing to make a meaningful attempt to resolve this case, but did not believe that a settlement was possible because of Plaintiff’s expectations about the worth of his case. (ECF No. 80.) Defendants also indicated that

1 Plaintiff owes more than \$5,000 in restitution, but they are unlikely to offer to settle this case for
2 more than \$5,000, which makes settlement highly unlikely.

3 The Court declines to schedule a settlement conference at this time. No settlement
4 conference will be scheduled until such time as both parties agree that settlement in the action is
5 possible. Should both parties be willing to participate in a settlement conference in a good faith
6 effort to settle this action, they may file a joint request for a settlement conference. Plaintiff's
7 motions for a settlement conference are HEREBY DENIED without prejudice.

8 IT IS SO ORDERED.

9 **Dated: February 21, 2013**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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