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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT G. BAKER,

Plaintiff,

v.

CONNIE GIPSON, et al.,

Defendants.

Case No. 1: 13-cv-01931-MJS (PC)

ORDER DENYING MOTION TO
ENFORCE SETTLEMENT AND FOR
SANCTIONS

(ECF No. 86)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil rights action brought pursuant to 42 U.S.C. § 1983. The action, now closed, proceeded against Defendant Kitt on Plaintiff's Eighth Amendment claim for inadequate medical care. The parties consented to Magistrate Judge jurisdiction for all purposes pursuant to 28 U.S.C. § 636(c).

A settlement conference was held on August 22, 2016, and the matter settled. (ECF Nos. 82, 83.) The matter was dismissed with prejudice pursuant to the parties' stipulation, and the case was closed. (ECF Nos. 84, 85.)

Before the Court is Plaintiff's October 26, 2016 motion to effectuate the settlement and to sanction Defendant for breach of the settlement agreement. (ECF No. 86.) Defendant filed a response. (ECF No. 87.) Plaintiff filed no reply. The matter is deemed submitted. Local Rule 230(l).

1 **I. Legal Standard**

2 In Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375 (1994), the
3 Supreme Court considered the jurisdiction of federal courts to enforce settlement
4 agreements. The Court held that once parties to a lawsuit have settled and the District
5 Court has dismissed the case, the District Court does not have ancillary jurisdiction to
6 enforce the parties' settlement agreement. Id. at 379-81. Ancillary jurisdiction to enforce
7 a settlement agreement may arise if the "parties' obligation to comply with the terms of
8 the settlement agreement had been made part of the order of dismissal – either by [a]
9 separate provision (such as a provision "retaining jurisdiction" over the settlement
10 agreement) or by incorporating the terms of the settlement agreement in the order." Id.
11 at 381; Hagestad v. Tragesser, 49 F.3d 1430, 1433 (9th Cir. 1995) (quoting Kokkonen,
12 511 U.S. at 381). Such specific language confers the requisite jurisdiction because a
13 breach of the agreement thereby violates the order. Kokkonen, 511 U.S. at 381. Absent
14 such language or an independent basis for jurisdiction, the enforcement of a settlement
15 agreement is for the state courts. Id. at 382.

16 To the extent that Plaintiff's motion can be construed as a request brought
17 pursuant to Federal Rule of Civil Procedure 60(b)(6), the Ninth Circuit has held that the
18 repudiation or "complete frustration" of a settlement agreement can be grounds to set
19 aside a judgment. See Keeling v. Sheet Metal Workers Int'l, 937 F.2d 408, 410 (9th Cir.
20 1991); see also Kokkonen, 511 U.S. at 378 (distinguishing enforcement of a settlement
21 agreement from reopening a dismissed suit because of breach of the agreement that
22 was the basis for dismissal).

23 **II. Parties' Arguments**

24 It appears that part of Plaintiff's motion is missing, as the motion itself cuts off
25 mid-sentence. In the portion of the motion filed with the Court, Plaintiff claims that,
26 pursuant to the settlement agreement, Defendant had forty five days to provide the
27 agreed-upon settlement funds to Plaintiff. No such funds were received as of the date of
28

1 filing.

2 Defendant responds that he had forty five days following receipt of an executed
3 release and request for dismissal in which to send the settlement funds to Plaintiff. He
4 received the executed documents on September 6, 2016, and therefore had until
5 October 21, 2016 to distribute the funds to Plaintiff. The settlement agreement
6 specifically provided that the funds would be sent to the California Department of
7 Corrections and Rehabilitation Accounting Department for distribution to Plaintiff's
8 prison trust account. The funds were sent to the accounting Department on October 10,
9 2016. Pursuant to the return receipt received by Defendant, the Accounting Department
10 received the funds on October 14, 2016. Defense counsel also spoke with Christyne
11 Mills in the Accounting Department to confirm receipt.

12 **III. Discussion**

13 The Court did not retain jurisdiction to enforce the parties' settlement agreement.
14 (See ECF Nos.84, 85.) Accordingly, Plaintiff's motion must be denied.

15 Nor does Plaintiff show grounds for relief under Rule 60(b)(6) as it appears his
16 request is without merit. Defendant submits evidence to show that he has complied with
17 the settlement agreement. Plaintiff provides no evidence or argument to the contrary.
18 Nothing before the Court reflects frustration of the settlement agreement or any basis
19 for sanction.

20 **IV. Conclusion and Order**

21 Based on the foregoing, Plaintiff's motion to enforce the settlement agreement
22 and for sanctions is HEREBY DENIED.

23
24 IT IS SO ORDERED.

25 Dated: November 9, 2016

26 /s/ Michael J. Seng
27 UNITED STATES MAGISTRATE JUDGE

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