

1 plaintiff to withdraw settlement and proceed with trial. (Doc. No. 149.) On September 25, 2019,
2 this motion was denied because plaintiff had not established extraordinary circumstances
3 justifying relief from the court’s order closing the case pursuant to the parties’ stipulation of
4 voluntary dismissal given defendant’s compliance with the settlement agreement and the absence
5 of any showing by plaintiff that his consent to the settlement agreement was obtained through
6 duress, menace, fraud, or undue influence. (Doc. Nos. 161, 162.)

7 On March 29, 2021, plaintiff filed another *pro se* motion to enforce the settlement
8 agreement asserting that the restitution amount he owed was decreased by \$2,500 on August 6,
9 2020 but that this money, which had been deducted from the settlement proceeds, was not
10 refunded to him by the California Department of Corrections and Rehabilitation (“CDCR”).
11 (Doc. No. 165.) On April 1, 2021, the assigned magistrate judge issued findings and
12 recommendations, recommending that plaintiff’s *pro se* motion to enforce the settlement
13 agreement be denied because the amount of restitution owed was by plaintiff was not reduced
14 until after “the settlement payment was made, the correct amount was deducted from the
15 settlement payment, and Defendants met their obligations under the settlement agreement . . .”
16 (Doc. No. 166 at 2.) Those findings and recommendations further stated that there was no
17 evidence that defendants in this case breached the settlement agreement in this action in any way
18 or would have been responsible for issuing a refund of the restitution amount paid after the later
19 reduction in the amount of restitution owed by plaintiff.² (*Id.*) The findings and
20 recommendations were served on the parties and contained notice that any objections thereto
21 were to be filed within fourteen days after service. (*Id.* at 3.) On April 5, 2021, defendants
22 timely filed a response to the findings and recommendations. (Doc. No. 167.) On April 14, 2021,
23 plaintiff filed objections to the findings and recommendations. (Doc. No. 168.)

24 Defendants argue that the motion to enforce the settlement should be denied and the
25 pending findings and recommendations be adopted because they complied with the material terms

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27 ² The assigned magistrate judge also *sua sponte* forwarded plaintiff’s motion and a copy of the
28 findings and recommendations to the Office of the Attorney General as an informal request for
assistance with respect to any overpayment of restitution. (Doc. No. 166 at 3 n.1.)

1 of the settlement agreement in this case. (Doc. No. 167 at 3.) They also assert that plaintiff did
2 not “overpay” the amount of restitution owed, because plaintiff’s restitution balance was
3 approximately \$5,000 in May 2019, and the order reducing the restitution balance owed to \$2,500
4 did not issue until August 6, 2020, over a year after this case was settled.³ (*Id.*)

5 In his objections, plaintiff asserts that this court has jurisdiction over CDCR and is able to
6 issue the relief he seeks. In the alternative, he argues that this court should revise its prior order
7 dismissing this action from with prejudice to without, so that plaintiff might be able to re-file this
8 action. However, plaintiff fails to cite any authority in support of his position in this regard, he
9 does not address the relevant standards to modify a prior order of this court, and nothing further is
10 provided that persuasively rebuts the conclusions reached in the pending findings and
11 recommendations.

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
13 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
14 court finds the findings and recommendations to be supported by the record and proper analysis.

15 **PLAINTIFF’S REQUEST TO FORWARD A COPY OF EVIDENCE**
16 **TO THE UNITED STATES ATTORNEY FOR REVIEW**

17 On April 26, 2021, plaintiff filed a request to forward a copy of all of the evidence in this
18 case, including deposition transcripts, to the United States Attorney to review whether a federal
19 hate crime had occurred based on events that, according to plaintiff, transpired on March 18,
20 2014. (Doc. No. 169.) Plaintiff had previously brought a nearly-identical motion on June 12,
21 2020, based on these alleged March 18, 2014 incidents (Doc. No. 163), which the assigned
22 magistrate judge denied on June 15, 2020, because the court lacked jurisdiction to order the
23 United States Attorney to file criminal charges against defendants and instructing plaintiff that if
24 he “believes a crime occurred, he may report the crime to the appropriate authorities himself.”
25 (Doc. No. 164 at 2.)

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28 ³ Defendants also observe that it is “suspect,” in their view, that plaintiff moved to reduce his
restitution balance after receiving a \$16,500 settlement in this case. (*Id.* at 3 n.3.)

1 In the pending motion, plaintiff has not established that this court has jurisdiction to order
2 the requested relief, and thus this motion will also be denied for those reasons.

3 **CONCLUSION**

4 Accordingly,

- 5 1. The findings and recommendations issued on April 1, 2021 (Doc. No. 166) are
6 adopted in full;
- 7 2. Plaintiff's motion to enforce the settlement agreement (Doc. No. 165) is denied;
- 8 3. Plaintiff's request to forward copy of all evidence to the United States Attorney for
9 federal hate crime review (Doc. No. 169) is denied;
- 10 4. This case shall remain closed; and
- 11 5. No further filings will be entertained in this closed case.

12 IT IS SO ORDERED.

13 Dated: April 30, 2021

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16 UNITED STATES DISTRICT JUDGE
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