

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

MARK ANTHONY BROWN,
Plaintiff,
v.
A. JARAMILLO, et al.,
Defendants.

Case No. 1:20-cv-00661-DAD-EPG (PC)
ORDER RE: JOINT STIPULATION FOR
DISMISSAL WITH PREJUDICE;
OVERRULING OBJECTIONS AS MOOT;
AND VACATING FINDINGS AND
RECOMMENDATIONS
(ECF No. 90, 92, 95)

Plaintiff Mark Anthony Brown is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. Defendants moved for summary judgment on September 23, 2021, asserting that Plaintiff failed to exhaust his administrative remedies as to any of his claims. (ECF No. 75). After the Court granted three extensions of time for Plaintiff to respond to the motion for summary judgment, the Court issued findings and recommendations on January 20, 2020, to dismiss this case without prejudice due to Plaintiff's failure to prosecute and comply with court orders. (*See* ECF Nos. 80, 85, 88, 90).

On February 17, 2022, Plaintiff filed objections to the findings and recommendations. (ECF No. 92). Generally, Plaintiff stated that he had received and accepted an offer of settlement during the time when his response was due and he thought that the case had been resolved. In support, he attached a letter from defense counsel allowing him to accept proposed terms until December 31, 2021, and a proposed stipulation of dismissal that Plaintiff signed and dated

1 December 17, 2021.

2 In light of Plaintiff's representations, the Court ordered Defendants to file a response
3 specifically addressing Plaintiff's assertion that the parties reached a settlement, and, if they did,
4 explaining why Defendants failed to file a notice of settlement as required by Local Rule 160 or
5 the stipulation of dismissal signed by Plaintiff. (ECF No. 93).

6 On February 25, 2022, Defendants filed a response, confirming that the parties had
7 reached a settlement and stating that no notice of settlement or stipulation of dismissal was filed
8 because the settlement documents from Plaintiff were "misrouted and not received by
9 Defendants' counsel." (ECF No. 94, p. 1). Defendants filed a joint stipulation of dismissal along
10 with the response, dismissing this action with prejudice and with each party bearing its own costs
11 and attorneys' fees. (ECF No. 95).

12 Based on Defendants' response and the joint stipulation of dismissal, IT IS ORDERED as
13 follows:

- 14 1. The Court's January 20, 2021 findings and recommendations (ECF No. 90) are
15 vacated;
- 16 2. Plaintiff's objections (ECF No. 92) are overruled as moot;
- 17 3. In light of the parties' stipulation (ECF No. 95), this action has been terminated,
18 Fed. R. Civ. P. 41(a)(1)(A)(ii), and has been dismissed with prejudice and without
19 an award of costs or attorneys' fees; and
- 20 4. The Clerk of Court is directed to close this case.

21
22 IT IS SO ORDERED.

23 Dated: February 28, 2022

24 /s/ Eric P. Gray
25 UNITED STATES MAGISTRATE JUDGE
26
27
28