

IN THE UNITED STATES DISTRICT COURT
OR THE EASTERN DISTRICT OF CALIFORNIA

HAROLD E. CARMONY,

Plaintiff, No. CIV S-05-1679 LKK GGH F

VS.

COUNTY OF SACRAMENTO, et al.,

Defendants. ORDER

On February 9, 2009, a further trial confirmation hearing was held. Plaintiff appeared in pro per. David Melton appeared on behalf of defendants. For the following reasons, the court orders this action dismissed without prejudice.

At the first trial confirmation held on November 3, 2008, plaintiff informed the court that officials at Coalinga State Hospital were denying him access to his computer which contained all of his pleadings filed in this action since February 2007. Plaintiff also stated that officials at Coalinga State Hospital had lost a box of his legal property containing documents pertaining to this action.

On December 24, 2008, the Director of Coalinga State Hospital informed the court that plaintiff's computer had been returned to him. On January 16, 2009, the Director of Coalinga State Hospital informed the court that after a thorough search, plaintiff's box of legal

1 property could not be located.

2 At the February 9, 2009, trial confirmation hearing, plaintiff stated that he could
3 not proceed to trial without the documents contained in the box of missing legal property.
4 Plaintiff told the court that he wanted to dismiss this action without prejudice to its refiling once
5 the box of missing documents is found. Pursuant to Fed. R. Civ. P. 41(a), plaintiff's request shall
6 be honored.

7 Accordingly, IT IS HEREBY ORDERED that this action is dismissed without
8 prejudice to its refiling when the box of missing legal documents pertaining to this action is
9 located.

10 DATED: February 9, 2009.

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13 LAWRENCE K. KARLTON
14 SENIOR JUDGE
15 UNITED STATES DISTRICT COURT
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