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

KEVIN RODGERS,

Plaintiff,

No. 2: 07-cv-2269 WBS DAD P

vs.

JAMES E. TILTON, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding *pro se* with a complaint filed pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge Craig M. Kellison to conduct a settlement conference on October 20, 2011. The parties reached a settlement agreement at that time and filed a stipulation for voluntary dismissal of this case with prejudice after that settlement conference. The case was then closed pursuant to the parties' stipulation.

Presently pending before the court is plaintiff's motion to withdraw the settlement agreement and re-open the proceedings in this action. Plaintiff claims that defendants failed to pay him the amount that was agreed to between the parties as part of their settlement agreement. Defendants response to that motion, filed August 21, 2012, represents to the court that plaintiff has now been paid the amount that is owed to him under the settlement agreement.

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In light of these circumstances, IT IS HEREBY ORDERED that plaintiff shall file a reply to defendants' response to his motion to withdraw the settlement agreement and re-open these proceedings within twenty-one (21) days of the date of this order. In the reply, plaintiff shall expressly state whether he seeks to pursue his motion to withdraw the settlement agreement and re-open the proceedings or withdraw that motion in light of defendants' statements that he has now been paid what is owed to him under the settlement agreement. Plaintiff's failure to comply with this order may result in a recommendation that his motion to withdraw the settlement and re-open the proceedings be denied without prejudice.

DATED: October 11, 2012.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:dpw
rodg2269.reply