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

DEXTER BROWN,

Plaintiff,

No. 2:11-cv-2128 WBS JFM (PC)

vs.

CORRECTIONAL SERGEANT  
D. SWAN, et al.,

ORDER

Defendants.

\_\_\_\_\_/

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On September 10, 2012, plaintiff filed a motion to voluntarily dismiss this action without prejudice and without “the assessment of a penalty/strike.” Motion to Voluntary Recall/Dismiss this Civil Action, filed September 10, 2012, at 1. Therein, plaintiff represents that he is seeking dismissal due to “unlawful and deliberate actions of CDCR officials” that interfered with his ability to prosecute this action. Id. Plaintiff also states that he has “lost the aid and logistical support of plaintiff’s peers in supporting this civil action . . . through the unlawful and obstructionist abuses of discretion” of CDCR personnel and that he has a number of chronic medical conditions that make it too difficult for him to prosecute this action in light of the alleged obstructions. Id. at 1-2.

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1           On October 17, 2012, defendants filed a document styled “Defendants’ Non-  
2 Opposition, In Part, and Opposition to Plaintiff’s Motion to Voluntarily Dismiss.” Therein,  
3 defendants represent that they do not oppose plaintiff’s motion to voluntarily dismiss this action  
4 but they dispute plaintiff’s claim that CDCR officials have obstructed prosecution of this action.  
5 Defendants also request dismissal of the action with prejudice.

6           On November 9, 2012, plaintiff filed a motion for an extension of time to respond  
7 to defendants’ October 17, 2012 brief. On November 21, 2012, plaintiff filed a motion for  
8 preliminary injunction or temporary restraining order, and on December 12, 2012, plaintiff filed a  
9 motion for a temporary restraining order. It appears from the contentions in the latter motion that  
10 plaintiff may no longer be seeking voluntary dismissal of this action. After review of the record,  
11 and good cause appearing, plaintiff will be granted a period of fifteen days from the date of this  
12 order to inform the court in writing whether he still seeks voluntary dismissal of this action or,  
13 instead, whether he wants to withdraw his September 10, 2012 motion for voluntary dismissal.  
14 Failure to respond to this order will result in a recommendation that this action be dismissed  
15 without prejudice. All outstanding motions will be denied without prejudice to their renewal, as  
16 appropriate, following plaintiff’s response to this order.

17           In accordance with the above, IT IS HEREBY ORDERED that:

18           1. Within fifteen days from the date of this order plaintiff shall inform the court  
19 in writing whether he still seeks voluntary dismissal of this action or, instead, whether he wants  
20 to withdraw his September 10, 2012 motion for voluntary dismissal. Failure to respond to this  
21 order will result in a recommendation that this action be dismissed without prejudice.

22           2. Plaintiff’s November 9, 2012 motion for extension of time (Doc. No. 43) is  
23 denied without prejudice.

24           3. Plaintiff’s November 21, 2012 motion for preliminary injunction and/or  
25 temporary restraining order (Doc. No. 44) is denied without prejudice.

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4. Plaintiff's December 12, 2012 motion for temporary restraining order (Doc. No. 45) is denied without prejudice.

DATED: January 3, 2013.

  
UNITED STATES MAGISTRATE JUDGE

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