

1 distant settlement conference. Id. at 1-2. Accordingly, plaintiff seeks a “temporary stay of
2 transfer pending the completion of the instant court proceedings after which [] Plaintiff welcomes
3 the opportunity to transfer to institutions where he may appl[y] the trade that has been gifted him
4 by the state.” Id. at 2.

5 As explained below, the court has no authority to postpone plaintiff’s transfer to another
6 California prison. However, in light of plaintiff’s medical concerns, he will be provided the
7 option of requesting that he appear at the October 31, 2019 settlement conference by video.

8 II. The Court Has No Authority to Postpone Plaintiff’s Anticipated Transfer

9 Plaintiff is informed that there is no legal authority supporting his efforts to postpone his
10 transfer to another California prison. Prisoners have no due process right to placement in a
11 particular correctional facility, or to prevent their transfer to other facilities. As explained by the
12 Supreme Court:

13 [G]iven a valid conviction, the criminal defendant has been
14 constitutionally deprived of his liberty to the extent that the State may
15 confine him and subject him to the rules of its prison system so long
16 as the conditions of confinement do not otherwise violate the
17 Constitution. The Constitution does not . . . guarantee that the
18 convicted prisoner will be placed in any particular prison. . . . The
19 initial decision to assign the convict to a particular institution is not
subject to audit under the Due Process Clause, although the degree
of confinement in one prison may be quite different from that in
another. The conviction has sufficiently extinguished the defendant’s
liberty interest to empower the State to confine him in any of its
prisons.

20 Neither . . . does the Due Process Clause in and of itself protect a
21 duly convicted prisoner against transfer from one institution to
22 another within the state prison system. Confinement in any of the
23 State’s institutions is within the normal limits or range of custody
24 which the conviction has authorized the State to impose. That life in
one prison is much more disagreeable than in another does not in
itself signify that a Fourteenth Amendment liberty interest is
implicated when a prisoner is transferred to the institution with the
more severe rules.

25 Meachum v. Fano, 427 U.S. 215, 224-5 (1976). For these reasons, plaintiff’s motion must be
26 denied.

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN GARDUNO,
Plaintiff,
v.
MIKE MCDONALD, et al.,
Defendants.

No. 2:15-cv-02370 MCE AC P

NOTICE RE: PLAINTIFF'S APPEARANCE
AT THE OCTOBER 31, 2019
SETTLEMENT CONFERENCE

As required by court order, the plaintiff notifies the court of the following election:

_____ Plaintiff would like to participate in the settlement conference in person.

OR

_____ Plaintiff would like to participate in the settlement conference by video, if available.

Date

Plaintiff