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

RANDALL E. ELLIS,

Plaintiff,

v.

K. BRANDON, et al.,

Defendants.

No. C 10-2957 TEH (PR)

ORDER DENYING WITHOUT PREJUDICE
PLAINTIFF'S REQUEST FOR A
STATUS CONFERENCE REGARDING
SETTLEMENT AGREEMENT

_____ /

On July 6, 2010, Plaintiff Randall E. Ellis, an inmate at Pelican Bay State Prison (PBSP), filed a civil rights complaint alleging a First Amendment claim against PBSP Captain K. Brandon and PBSP Officers J. Silveira and C. Countess. On September 27, 2011, this case was referred to Magistrate Judge Nandor Vadas for a settlement conference. On April 2, 2012, the parties filed a stipulation of voluntary dismissal with prejudice. On April 3, 2012, an Order of Voluntary Dismissal with Prejudice was entered by

United States District Court
For the Northern District of California

1 the Court. The Order provides, in relevant part, that the parties:

2 stipulate to a dismissal of this action with prejudice
3 under Federal Rule of Civil Procedure 41(a)(1)(A)(ii).
4 . . . The filing of this stipulation automatically
5 terminates the action.

6 On July 16, 2012, Plaintiff submitted a letter to the
7 Court stating that, on March 30, 2012, the parties entered into a
8 settlement agreement that called for its terms to be met within six
9 months from the date of signing but that, to date, Defendants had
10 not met the terms of the agreement. Plaintiff requests that the
11 Court order Defendants to file a final status report before it
12 dismisses the case with prejudice.

13 Pursuant to the parties' stipulation to dismiss the case
14 with prejudice, this case has been closed since April 2012. If the
15 settlement agreement provides that the Court retains jurisdiction
16 over it, then this Court would have jurisdiction to order a status
17 report regarding the parties' performance of their mutual
18 obligations under the agreement. If the settlement agreement does
19 not provide that the Court retains jurisdiction, the Court would
20 lack jurisdiction to order such a report. Because the settlement
21 agreement was not filed with the Court, the Court cannot ascertain
22 whether it provides that the Court has jurisdiction over it.

23 However, whether the Court retains jurisdiction does not
24 have to be decided at this time. The March 30, 2012 settlement
25 agreement allowed Defendants six months in which to perform their
26 obligations. Six months have not yet elapsed and there is still
27 time for Defendants to meet the terms of the agreement.

28 Therefore, Plaintiff's request for a status conference is

1 premature and, thus, it is denied without prejudice. If Defendants
2 have not performed after six months have passed, Plaintiff may
3 refile his request for a status report, with a copy of the
4 settlement agreement and a short brief, not more than two pages in
5 length, explaining why the Court retains jurisdiction over the
6 agreement.

7
8 IT IS SO ORDERED.

9
10 DATED 08/02/2012



THELTON E. HENDERSON
United States District Judge