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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID J. NELSON,
Plaintiff,

No. C 09-5162 PJH

v.

**ORDER DENYING REQUEST FOR
EX PARTE EVIDENTIARY HEARING**

ROBERT DAVID NEAL,
Defendant.

The court is in receipt of an “post-judgment, request for ex parte evidentiary hearing” filed by plaintiff David J. Nelson to establish “final habeas corpus affirming judgment in this instant case.” Doc. no. 30. Plaintiff represents that he is in the custody of the Federal Bureau of Prisons and claims that he is entitled to a writ of habeas corpus pursuant to a settlement agreement which was executed by senior BOP officials. Plaintiff contends that the judgment entered by this court ordered the BOP officials “to terminate their custody of my person which you referenced as ‘chattel.’” Plaintiff further asks the court to document his entitlement rights, presumably to habeas relief, for enforcement by the District Court for the Southern District of Indiana.

Having reviewed the record and the orders of the District Court for the Southern District of Indiana in the matters to which Plaintiff refers, the court determines that plaintiff Nelson may be the same person as defendant Robert David Neal, and that Mr. Nelson, or Mr. Neal, did not disclose to the court that he was in custody at the time he sought judgment from this court, or that he was referring to himself as “Chattel.” Notwithstanding these indications that the judgment in favor of Mr. Nelson and against his alias, Mr. Neal, was entered as a result of fraud upon the court, the judgment, even if valid, would not be

1 binding upon any parties other than Mr. Nelson or Mr. Neal and would not result in Mr.
2 Nelson or Mr. Neal's release on the ground that he is "chattel." To the extent that Mr.
3 Nelson or Mr. Neal seeks release from federal custody, he must do so pursuant to the
4 procedures governing habeas corpus relief.

5 Plaintiff's request for ex parte evidentiary hearing is DENIED.

6 **IT IS SO ORDERED.**

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8 Dated: October 11, 2011



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PHYLLIS J. HAMILTON
United States District Judge