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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JERRY E. TORRES,
CDCR #T-94067,

Plaintiff,

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

Civil No. 05-0182 DMS (CAB)

**ORDER DENYING PLAINTIFF'S
MOTION TO ENFORCE
SETTLEMENT AGREEMENT AS
MOOT**

[Doc. No. 105]

On September 29, 2009, Plaintiff filed a civil action with this Court in which he claimed that Defendants failed to fully execute the settlement agreement that had been reached in this matter in March 2007. The Court liberally construed Plaintiff's complaint as a "Motion to Enforce Settlement Agreement" [Doc. No. 105]. Defendants filed a response to Plaintiff's Motion on November 3, 2009 [Doc. No. 106].

The relevant portion of the settlement agreement provided, in part, that "Torres acknowledges that the sum of six thousand dollars (\$6,000.00) to be paid in settlement of *Torres v. California Dept. of Corrections, et al.*, United States District Court, Southern District case no. 05-CV-182 DMS (CAB), will be applied to the amount of restitution he owes and paid to appropriate State of California agencies pursuant to Penal Code Section 2085.5" (*See Defs.*'

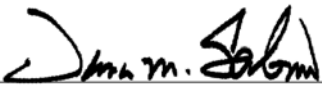
1 Reply at 1-2.”). Plaintiff claims in his Motion that he recently learned that the payment had
2 never been applied to his restitution account as set forth on his inmate trust account statement.
3 (*See* Pl.’s Mot. at 1-2.)

4 Defendants have supplied the Declaration J. Sturchio, Special Investigator for the
5 California Department of Corrections and Rehabilitations (“CDCR”) Office of Legal Affairs.
6 In Sturchio’s Declaration, he indicates that he reviewed the records of this case and discovered
7 that a check had been issued on November 5, 2007 in the amount of \$5,700¹ but the Plaintiff’s
8 restitution balance had not been credited for this amount. (*See* Sturchio Decl. at ¶¶ 1-3.) On
9 October 27, 2009, Plaintiff’s “Offender Restitution Payment History” has now been credited
10 with the \$5700.00. (*Id.* ¶ 4.)

11 Accordingly, it now appears that Defendants have fully satisfied the terms of the
12 settlement agreement reached in March of 2007. Plaintiff’s Motion to Enforce the Settlement
13 Agreement is **DENIED** as moot.

14 **IT IS SO ORDERED.**

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16 DATED: January 6, 2010

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18 _____
19 HON. DANA M. SABRAW
20 United States District Judge

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¹ The amount of \$300 was withheld for administrative fees owed the CDCR as required by
California Penal Code § 2085.5.