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3 UNITED STATES DISTRICT COURT
4 SOUTHERN DISTRICT OF CALIFORNIA
5

6 PRISON LEGAL NEWS,
7
8 v.
9 COUNTY OF SAN DIEGO, et al.,
10 Defendants.

Case No.: 14-cv-2417-L-NLS

**ORDER DISMISSING
PETITIONER’S MOTION TO
INTERVENE AND PETITION FOR
CONTEMPT**

[ECF No. 82]

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12 Pending before the Court is Petitioner Pedro Rodriguez’s (“Petitioner”) motion to
13 intervene and petition for contempt. (ECF No. 82.) Defendants opposed, (ECF No. 86),
14 and Petitioner replied, (ECF No. 88). The Court decides the matter on the papers
15 submitted and without oral argument. *See* Civ. L. R. 7.1(d.1). For the reasons stated
16 below, the Court denies Petitioner’s motion.

17 **1. BACKGROUND**

18 Plaintiff Prison Legal News (“Plaintiff”) filed the initial complaint in this matter on
19 October 9, 2014, alleging Defendants censored and failed to deliver Plaintiff’s
20 publications in violation of the First and Fourteenth Amendments. (ECF No. 1.)
21 Following a settlement agreement, Plaintiff filed a joint motion for entry of judgment on
22 February 6, 2018. (ECF No. 79.) In the motion, the parties stipulated that the “action is
23 dismissed,” but agreed that the Magistrate Judge shall “retain jurisdiction over all
24 disputes between and among the parties arising out of the settlement agreement,
25 including but not limited to the interpretation and enforcement of the terms of the
26 settlement agreement.” (ECF No. 79-1, at 2.) The Court granted the motion, dismissing
27 the case subject to the aforementioned jurisdiction retainer. (ECF No. 80.)
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1 Petitioner, proceeding *pro se*, is a prisoner claiming that the San Diego Sheriff’s
2 Department stopped delivering his mail on September 1, 2022, in violation of the First
3 and Fourteenth Amendments. (ECF No. 82, at 2–3, 5.) Petitioner now moves to
4 intervene pursuant to Federal Rule of Civil Procedure 23¹ and requests that the Court
5 hold the San Diego Sheriff’s Department in contempt for violating the settlement
6 agreement. (*Id.* at 1, 3.)

7 **2. DISCUSSION**

8 Federal Rule of Civil Procedure 41(a)(1)(A)(ii) allows a plaintiff to dismiss an
9 action by filing a stipulation of dismissal signed by all parties. “Once a stipulation of
10 dismissal has been filed, ‘the district court loses jurisdiction over the dismissed claims
11 and may not address the merits of such claims or issue further orders pertaining to
12 them.’” *Wells v. California Home Loan Sols.*, No. CIV07CV1040JAJB, 2007 WL
13 2915059, at *2 (S.D. Cal. Oct. 4, 2007) (quoting *Duke Energy Trading & Mktg., LLC v.*
14 *Davis*, 267 F.3d 1042, 1049 (9th Cir. 2001)). However, the Court may maintain
15 jurisdiction over collateral matters. *See Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384,
16 395 (1990).

17 The original parties’ filing of the stipulation of dismissal divested this Court of
18 jurisdiction to rule on Petitioner’s motion to intervene. Moreover, the jurisdiction
19 invested in the Magistrate Judge concerns a collateral matter. *See Kokkonen v. Guardian*
20 *Life Ins. Co. of Am.*, 511 U.S. 375, 381 (1994) (“[I]f the parties’ obligation to comply
21 with the terms of the settlement agreement had been made part of the order of dismissal .
22 . . a breach of the agreement would be a violation of the order, and ancillary jurisdiction
23 to enforce the agreement would therefore exist.”). The Court does not have the ability to
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26 ¹ Federal Rule of Civil Procedure 23 only applies to class actions, which the above-captioned case is not.
27 Therefore intervention under Rule 23 is inappropriate. But even if the Court gives Petitioner the benefit
28 of liberal construction for *pro se* filings, *see Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and
considers Petitioner’s motion as one brought under the appropriate Rule, Petitioner’s motion still fails
for the reasons stated below.


1 expand its jurisdiction beyond collateral matters. Therefore, the Court lacks jurisdiction
2 to rule on Petitioner’s motion, let alone grant it. *See W. Coast Seafood Processors Ass'n*
3 *v. Nat. Res. Def. Council, Inc.*, 643 F.3d 701, 704 (9th Cir. 2011) (“Because the
4 underlying litigation is over, we cannot grant [the proposed intervenor] any ‘effective
5 relief’ by allowing it to intervene now.”). It follows that the Court also lacks jurisdiction
6 to issue a contempt order on Petitioner’s behalf.

7 **3. CONCLUSION**

8 For the reasons stated above, the Court denies Petitioner’s motion to intervene and
9 petition for contempt due to lack of jurisdiction.

10 **IT IS SO ORDERED.**

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12 Dated: April 10, 2023

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14 Hon. M. James Lorenz
15 United States District Judge
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