

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE WILLIAMS,

Plaintiff,

v.

ROMERO, et al.

Defendants.

No. 2:17-cv-1884 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action under 42 U.S.C. § 1983. On February 6, 2019, this court issued an order referring this case to the Post-Screening ADR Project and staying the case for 120 days. (ECF No. 38.) On February 26, the court set a settlement conference for March 28, 2019, before Magistrate Judge Delaney. (ECF No. 41.)

On March 8, 2019, defendants filed a notice that they opted out of the ADR program. (ECF No. 44.) The court informed defendants that they may only opt out upon a showing that they have investigated plaintiff's claims, spoken with plaintiff, and conferred with defense counsel's supervisor. If defendants establish that a settlement conference at this juncture would be a "waste of resources," the court would permit defendants to opt out of the ADR program. The court informed defendants that it would disregard their notice. (ECF No. 45.)

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On March 14, 2019, defendants filed a motion to opt out of the ADR program. (ECF No. 46.) Defendants state summarily that they have complied with the court's directives. The only basis defendants provide to justify their request to opt out is their counsel's statement that he spoke with plaintiff on the telephone and plaintiff refused to discuss the case or settlement with him. (ECF Nos. 46-1; 46-2.) The court finds that interaction somewhat surprising since plaintiff had requested participation in the ADR program. (See ECF No. 35.) However, the goal of the ADR program is to encourage early settlement discussions, ideally without the court's assistance. Since plaintiff has refused to participate in early discussions, the court is concerned that a formal settlement conference would not be fruitful.


Based on plaintiff's refusal to discuss the case or settlement with defendants' counsel, this court will vacate its order referring this case to the ADR program and will lift the stay. Because defendants have answered the complaint, a discovery and scheduling order will issue shortly.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Defendants' motion to be excluded from the Post-Screening ADR Project (ECF No. 46) is granted;
2. The referral of this action to the Post-Screening ADR Project is withdrawn and the stay of this action is lifted;
3. The settlement conference scheduled for March 28, 2019 before Magistrate Judge Delaney is vacated;
4. The February 28, 2019 Order and Writ of Habeas Corpus ad Testificandum (ECF No. 43) is vacated; and
5. The Clerk of the Court is instructed to serve a copy of this order on the Warden, R.J. Donovan Correctional Facility.

Dated: March 14, 2019

DLB:9/DB/prisoner-civil rights/will1884.adr opt out


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE