

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Dunsmore v. Thomas

Dunsmore v. Thomas · No. 2:17-cv-02355-KJM-AC · Decided April 7, 2025

OPINION

(PC) Dunsmore v. Thomas

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 | Darryl Dunsmore, No. 2:17-cv-02355-KJM-AC 12 Plaintiff, ORDER 13 v. M. Thomas, 1S
Defendant. 16 17 As explained in this order, plaintiff's motion (ECF No. 53) to enforce the
settlement 18 | agreement is denied. 19 Plaintiff Darryl Dunsmore, who is in the custody of the
California Department of 20 | Corrections and Rehabilitation (CDCR), filed this action against
defendant M. Thomas, a 21 | correctional officer. See generally First Am. Compl., ECF No. 12.
Dunsmore alleged Thomas 22 | sprayed him with pepper spray and struck his face with the pepper
spray cannister, all without 23 | provocation. See id. ¶§ 22-23. Dunsmore also alleged Thomas
falsely charged him with a rules 24 | violation for assaulting an officer. See id. § 26. result,
Dunsmore alleged, he was sent to 25 | administrative segregation and lost good time credits,
among other deprivations. See id. 26 | Dunsmore claimed in this case that Thomas's actions
violated his constitutional right against 27 | cruel and unusual punishments under the Eighth
Amendment, see id. 4] 38-53, and he alleged 28 | Thomas was liable under state tort law, see id. J
54-70. 1 After Thomas's motion for summary judgment was denied, the parties participated in a 2
settlement conference before the assigned Magistrate Judge. See Mins., ECF No. 49. The case 3
settled. See id. Dunsmore has filed a copy of the written settlement agreement on the docket, and
4 Thomas does not dispute it is an accurate copy. ECF No. 53. In the agreement, CDCR agreed to
5 pay Dunsmore \$52,000 on behalf of Thomas, and Dunsmore agreed to sign a stipulation for the
6 voluntary dismissal of this action. See id. at 1. The written agreement also provides that CDCR
7 was not required to perform any "other actions," id. at 2, that the consideration identified in the
8 written agreement was the "only consideration," id. at 3, and that the written settlement 9
agreement was an "integrated agreement" i.e., that "there are no other agreements, written or oral,
10 express or implied, between the parties," id. As agreed, Dunsmore and Thomas stipulated to the
11 dismissal of this case under Rule 41(a)(1)(A)(ii), and the case was closed. See Stip., ECF No.
50; 12 Clerk's Not., ECF No. 51. The court retained jurisdiction to enforce the settlement
agreement. 13 See Mins., ECF No. 49. 14 A few months later, Dunsmore moved pro se to enforce

the settlement agreement even 15 though he had previously been represented by counsel in this matter. See generally Mot. Enforce, 16 ECF No. 53. Citing the parties' agreement to release one another of "any and all liability," he 17 contends CDCR and Thomas had an obligation to withdraw the rules violation report for 18 assaulting an officer. See *id.* at 1–2. The court set briefing deadlines and a hearing date. See 19 Order (Feb. 4, 2025), ECF No. 54. Briefing is now complete. See generally Opp'n, ECF No. 57; 20 Reply, ECF No. 61. Dunsmore's counsel has withdrawn, and he is proceeding pro se. ECF

21 No. 59. The court took the matter under submission without holding a hearing. Min. Order, ECF

22 No. 63.

23 A settlement agreement is a contract, and a motion to enforce a settlement agreement 24 "essentially is an action to specifically enforce a contract." *Adams v. Johns-Manville Corp.*, 25 876 F.2d 702, 709 (9th Cir. 1989). "The interpretation of a settlement agreement is governed by 26 principles of state contract law. This is so even where a federal cause of action is 'settled' or 27 'released.'" *Botefur v. City of Eagle Point, Or.*, 7 F.3d 152, 156 (9th Cir. 1993) (citing *Jeff D. v. 28 Andrus*, 899 F.2d 753, 759 (9th Cir. 1990) and quoting *United Com. Ins. Serv., Inc. v. Paymaster 1 Corps.*, 962 F.2d 853, 856 (9th Cir. 1992)). "Under California law, the intent of the parties 2 determines the meaning of the contract." *United Com. Ins.*, 962 F.2d at 856. "The relevant intent 3 is 'objective'—that is, the intent manifested in the agreement and by surrounding conduct—rather 4 than the subjective beliefs of the parties." *Id.* (quoting *Laws. Title Ins. Corp. v. U.S. Fid. & Guar. 5 Co.*, 122 F.R.D. 567, 569 (N.D. Cal. 1988)). "For this reason, the true intent of a party is 6 irrelevant if it is unexpressed." *Id.* 7 As summarized above, the settlement agreement between Dunsmore, CDCR and Tomas 8 requires CDCR to pay the \$52,000 sum. See Settlement Agreement at 2–3. It does not include 9 promises related to the rules violation report. It makes clear to the contrary that there is no other 10 "consideration," no other "representations, promises, or inducements," and no agreement beyond 11 the written agreement itself. *Id.* If Dunsmore had different intentions or expectations, they 12 remained "unexpressed" and so are "irrelevant." *United Com. Ins.*, 962 F.2d at 856 (quoting 13 *Laws. Title Ins.*, 122 F.R.D. at 569). CDCR and Thomas have no obligation to withdraw the rules 14 violation report. 15 Dunsmore is correct that the settlement agreement recites his and the other parties' intent 16 "to discharge each other from any and all liability with reference to [his] claims." Settlement

17 Agreement at 1; see also Mot. at 1. But this recital cannot reasonably be interpreted as expressing

18 an intent to withdraw the rules violation report. If that report were false, as Dunsmore alleged, 19 and if he proved that allegation at trial, then Thomas might have become liable to him for 20 maintaining it. But the case did not go to trial. Dunsmore agreed to dismiss his claims and end 21 the case in exchange for payment. 22 The court addresses two administrative matters in conclusion. First, Thomas contends he 23 specifically rejected Dunsmore's request to withdraw

the rules violation report during the 24 settlement conference. See Opp'n at 7; see also Mathison Decl. ¶¶ 2–4, ECF No. 57. He also 25 argues he would not and could not have agreed to withdraw the rules violation report in any 26 event, citing *Heck v. Humphrey*. See Opp'n at 7 (citing 512 U.S. 477 (1994)). This type of 27 extrinsic evidence might be admissible if the settlement agreement were ambiguous. See *Winet v. 28 Price*, 4 Cal. App. 4th 1159, 1165 (1992). But Thomas has not identified any relevant ambiguity, 1 so the court has relied solely on the written agreement. Second, Dunsmore makes a number of 2 new arguments in his reply about various fees, trust account balances and the fee agreement he 3 signed with the attorney who previously represented him in this matter. See Reply at 2. He adds 4 more detail to these claims in an unauthorized supplemental filing. ECF No. 64. The court has 5 not considered these new arguments or the evidence Dunsmore offers in support of them, as 6 doing so would unfairly deprive Thomas of an opportunity to respond. Nor does Dunsmore 7 connect his new arguments and evidence to the terms of the settlement agreement he seeks to 8 enforce. Dunsmore also appears to assert in his supplemental filings his attorney has violated 9 their separate fee agreement. The court has not retained jurisdiction to adjudicate any such claim 10 and has no independent jurisdictional basis to do so. See *Kokkonen v. Guardian Life Ins. Co. of 11 Am.*, 511 U.S. 375, 381–82 (1994). 12 The motion to enforce (ECF No. 53) is denied. 13 IT IS SO ORDERED. 14 DATED: April 4, 2025.