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

ROBERT BENYAMINI,

Plaintiff,

No. CIV S-09-2323 FCD DAD P

vs.

T. FORSTHY, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On April 28, 2011, the court issued an order informing plaintiff that his amended complaint stated a cognizable Eighth Amendment claim concerning his allegation that he had been denied yard time at his institution of confinement. Plaintiff was ordered to submit documents for service on defendants T. Forsthy, M. Forsthy, Dizion, Kouizak, Cox, Sanbria and O'Brian. On June 8, 2011, the court filed findings and recommendations recommending that this action be dismissed due to plaintiff's failure to submit the USM-285 forms for service on these defendants. Before the court are plaintiff's motion to stay the proceedings and his objections to the court's findings and recommendations.

In his first motion, plaintiff requests a stay for at least six months due to the difficulties he has experienced including an alleged beating at the hands of a correctional officer,

1 missing documents from his legal property, limited prison law library time, and physical
2 disabilities. Plaintiff's allegations in this regard are vague and conclusory. Moreover, he
3 provides no legal authority or explanation to support his request for such a lengthy stay of this
4 civil action. Nevertheless, the court will vacate the findings and recommendations and provide
5 plaintiff additional time to submit the USM-285 forms which the court has previously ordered be
6 submitted by plaintiff. Plaintiff is cautioned that the court expects plaintiff to proceed diligently
7 and in a timely manner. This action was initiated in 2009 and further delays in moving forward
8 with this action are unacceptable. If plaintiff fails to comply with the court's order to submit the
9 required documents for service on defendants, the court will recommend the dismissal of this
10 action due to plaintiff's failure to prosecute the action and comply with the court's orders.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The findings and recommendations filed on June 8, 2011 (Doc. No. 26) are
13 vacated;
- 14 2. Plaintiff's June 9, 2011 motion for a stay (Doc. No. 27) is denied; and
- 15 3. The Clerk of the Court is directed to send plaintiff seven USM-285 forms, one
16 summons, an instruction sheet, and a copy of the amended complaint filed September 30, 2010.
- 17 4. Within thirty days from the date of this order, plaintiff shall complete the
18 attached Notice of Submission of Documents and submit all of the following documents to the
19 court at the same time:
 - 20 a. The completed, signed Notice of Submission of Documents;
 - 21 b. One completed summons;
 - 22 c. One completed USM-285 form for each defendant; and
 - 23 d. Eight copies of the endorsed amended complaint filed September 30,
24 2010.

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5. Plaintiff failure to comply with this order will result in the dismissal of this action.

DATED: July 15, 2011.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:4
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT BENYAMINI,

Plaintiff,

No. CIV S-09-2323 FCD DAD P

vs.

T. FORSTHY, et al.,

Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____ /

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

- _____ one completed summons form;
- _____ [#] completed USM-285 forms; and
- _____ [#] true and exact copies of the amended complaint filed September 30,
2010.

DATED: _____.

Plaintiff