

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIUS ANDERSON,
Plaintiff,
v.
CALIFORNIA MEDICAL FACILITY
SOLANO, et al.,
Defendants.

No. 2:16-cv-0018 TLN CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect twenty percent of the preceding month's income credited to plaintiff's prison trust account and forward it to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

////

1 The court is required to screen complaints brought by prisoners seeking relief against a
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
3 court has conducted the required screening.

4 The court finds that plaintiff will be permitted to proceed on the following claims against
5 the following defendants:

- 6 1. Claim for negligence arising under California law against defendant Hernandez; and
- 7 2. Claim for cruel and unusual punishment in violation of the Eighth Amendment against
8 defendant Mendoza.

9 In all other respects, plaintiff does not state actionable claims. To the extent plaintiff
10 alleges certain defendants retaliated against plaintiff for engaging in activities protected under
11 federal law, plaintiff either fails to allege facts showing a sufficient connection between the
12 protected activity and the alleged retaliation, fails to show actionable injury, or both. To the
13 extent plaintiff complains about the outcome of prisoner disciplinary proceedings, plaintiff fails to
14 allege that he was deprived of a liberty interest protected by the Due Process Clause of the
15 Fourteenth Amendment. Plaintiff is informed that such liberty interests are “generally limited to
16 freedom from restraint which, while not exceeding the sentence in such an unexpected manner as
17 to give rise to protection by the Due Process Clause of its own force, [citations omitted],
18 nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary
19 incidents of prison life.” Sandin v. Connor, 515 U.S. 472, 484 (1995). Plaintiff has not alleged
20 that he has suffered atypical and significant hardship as a result of the disciplinary proceedings
21 addressed on page 5 of his complaint.

22 In accordance with the above, IT IS HEREBY ORDERED that:

- 23 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted.
- 24 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff
25 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. §1915(b)(1).
26 All fees shall be collected and paid in accordance with this court’s order to the California
27 Department of Corrections and Rehabilitation filed concurrently herewith.

28 /////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Service is appropriate for defendants Mendoza and Hernandez.

4. The Clerk of the Court shall send plaintiff two USM-285 forms, a summons, an instruction sheet and a copy of the complaint.

5. Within thirty days from the date of this order, plaintiff shall complete the attached Notice of Submission of Documents and submit the following documents to the court:

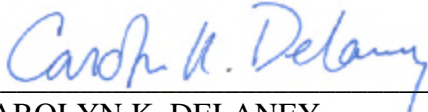
- a. The completed Notice of Submission of Documents;
- b. One completed summons;
- c. Two completed USM-285 forms; and
- d. Three copies of the complaint.

6. Plaintiff need not attempt service on defendants and need not request waiver of service. Upon receipt of the above-described documents, the court will direct the United States Marshal to serve defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

IT IS HEREBY RECOMMENDED that all defendants other than defendants Mendoza and Hernandez be dismissed.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: March 30, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIUS ANDERSON,

Plaintiff,

v.

CALIFRONIA MEDICAL FACILITY,
SOLANO, et al.,

Defendants.

No. 2:16-cv-0018 TLN CKD P

NOTICE OF SUBMISSION
OF DOCUMENTS

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

- _____:
- _____ completed summons form
 - _____ completed USM-285 forms
 - _____ copies of the _____
Complaint

DATED:

Plaintiff