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

HOWARD YOUNG,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND REHABILITATION,  
et al.,

Defendants.

1:05-cv-01180-OWW-LJO PC

ORDER FOR THIS ACTION TO  
PROCEED ONLY AGAINST  
DEFENDANT BARRON FOR  
RETALIATION, AND DISMISSING  
ALL REMAINING CLAIMS AND  
DEFENDANTS

ORDER FINDING SERVICE OF SECOND  
AMENDED COMPLAINT APPROPRIATE  
AND FORWARDING SERVICE  
DOCUMENTS TO PLAINTIFF FOR  
COMPLETION AND RETURN WITHIN  
THIRTY DAYS  
(Doc. 42.)

THIRTY DAY DEADLINE

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**I. BACKGROUND**

Plaintiff Howard Young is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the original Complaint on August 2, 2007. (Doc. 1.) On August 15, 2007, Plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c)(1), and no other parties have made an appearance. (Doc. 6.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California, the Magistrate Judge shall conduct any and all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

1 On August 31, 2007, Plaintiff filed the First Amended Complaint. (Doc. 9.) On August 31,  
2 2009, Plaintiff filed the Second Amended Complaint. (Doc. 42.) The Court screened the Second  
3 Amended Complaint and issued an order on June 21, 2010, requiring Plaintiff to either file a Third  
4 Amended Complaint or notify the Court that he is willing to proceed with the Second Amended  
5 Complaint against defendant Barron only, on the claim found cognizable by the Court. (Doc. 55.)  
6 On September 20, 2010, Plaintiff notified the Court that he is willing to proceed against only  
7 defendant Barron for retaliation under the First Amendment. (Doc. 74.)

8 Accordingly, it is HEREBY ORDERED that:

- 9 1. This action now proceeds on Plaintiff's Second Amended Complaint, against  
10 defendant Correctional Officer J. Barron only, for retaliation in violation of the First  
11 Amendment, for money damages only;
- 12 2. All remaining claims and defendants are dismissed from this action;
- 13 3. Defendants California Department of Corrections and Rehabilitation, Deputy  
14 Director W.A. Duncan, Nola Grannis, Derral Adams, Captain Fields, Lieutenant J.  
15 Kavanaugh, Correctional Officer E. Delacruz, Lieutenant Pina, Lieutenant Fresquez,  
16 Lieutenant Munoz, CCII White, CCII Maxwell, Lieutenant Huckaby, T. Gonzales,  
17 Officer Scalia, Sergeant Lopez, the ICC Staff, and John/Jane Does 1-10 are dismissed  
18 from this action based on Plaintiff's failure to state any claims upon which relief may  
19 be granted against them;
- 20 4. Plaintiff's claims for violation of due process, adverse conditions of confinement,  
21 denial of access to the courts, equal protection, false imprisonment, deficiencies in  
22 the inmate appeals process, and loss of good-time credits are dismissed based on  
23 Plaintiff's failure to state a claim upon which relief may be granted under section  
24 1983;
- 25 5. Service is appropriate for the following defendant:  
26 CORRECTIONAL OFFICER J. BARRON
- 27 6. The Clerk of the Court shall send Plaintiff one (1) USM-285 form, one (1) summons,  
28 a Notice of Submission of Documents form, an instruction sheet and a copy of the

1 Second Amended Complaint filed August 31, 2009 (Doc. 42.);

2 7. Within **thirty (30) days** from the date of this order, Plaintiff shall complete the  
3 attached Notice of Submission of Documents and submit the completed Notice to the  
4 court with the following documents:

5 a. Completed summons;

6 b. One completed USM-285 form for each defendant listed above; and

7 c. Two (2) copies of the endorsed Second Amended Complaint filed August 31,  
8 2009.

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

13 9. The failure to comply with this order will result in a recommendation that this action  
14 be dismissed.

15  
16 IT IS SO ORDERED.

17 **Dated: September 26, 2010**

18 /s/ Gary S. Austin  
19 UNITED STATES MAGISTRATE JUDGE  
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