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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PHILLIP JON ROSENBLUM,

Plaintiff,

v.

C/O ELLIS, et al.,

Defendants.

CASE NO. 1:05-cv-1473-LJO-WMW PC

ORDER FINDING SERVICE OF COMPLAINT
APPROPRIATE, AND FORWARDING
SERVICE DOCUMENTS TO PLAINTIFF FOR
COMPLETION AND RETURN WITHIN
THIRTY DAYS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983 and California tort law. Plaintiff filed this action on November 21, 2005. The Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, and found that it states cognizable claims against Defendant Ellis for failure to protect in violation of the Eighth Amendment.¹ Accordingly, it is HEREBY ORDERED that:

1. Service is appropriate for the following defendant:

C/O ELLIS

2. The Clerk of the Court shall send Plaintiff one USM-285 form, one summons, a Notice of Submission of Documents form, an instruction sheet and a copy of the

¹ In a Findings and Recommendations issued concurrently with this Order, the Court recommended that Plaintiff’s due process and supervisory liability claims be dismissed, along with Defendants Vasquez and Robles.

1 complaint filed November 21, 2005.

2 3. 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 defendant Ellis; and
- 7 c. Two copies of the endorsed complaint filed November 21, 2005.

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

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

14
15 IT IS SO ORDERED.

16 **Dated:** February 10, 2009

17 /s/ William M. Wunderlich
18 UNITED STATES MAGISTRATE JUDGE