

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RUSSELL MARTIN,

CASE NO. 1:06-cv-0906-AWI-WMW PC

Plaintiff,

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

v.

W. SULLIVAN, et al.,

Defendants.

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. This action proceeds on the August 27, 2007, first amended complaint. The Court screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A, and found that it states cognizable claims against Defendant Bryant under the Eighth Amendment for wanton infliction of pain and unconstitutional conditions of confinement..¹ Fed. R. Civ. P. 8(a); Erickson v. Pardus, 127 S.Ct. 2197, 2200 (2007); Alvarez v. Hill, 518 F.3d 1152, 1157-58 (9th Cir. 2008). Accordingly, it is HEREBY ORDERED that:

1. Service is appropriate for the following defendants:

LIEUTENANT BRYANT

¹The court found that Plaintiff failed to state a claim against Defendant Sullivan. Plaintiff chooses to proceed on the claims against Defendant Bryant only. Concurrent with this order, a recommendation of dismissal will be entered, recommending dismissal of Defendant Sullivan.

- 1 2. The Clerk of the Court shall send Plaintiff one USM-285 form, one summons, a
2 Notice of Submission of Documents form, an instruction sheet and a copy of the
3 amended complaint filed August 27, 2007.
- 4 3. Within **thirty (30) days** from the date of this order, Plaintiff shall complete the
5 attached Notice of Submission of Documents and submit the completed Notice to the
6 Court with the following documents:
- 7 a. Completed summons;
- 8 b. One completed USM-285 form for each defendant listed above; and
- 9 c. Two copies of the endorsed amended complaint filed August 27, 2007.
- 10 4. Plaintiff need not attempt service on Defendants and need not request waiver of
11 service. Upon receipt of the above-described documents, the Court will direct the
12 United States Marshal to serve the above-named defendants pursuant to Federal Rule
13 of Civil Procedure 4 without payment of costs.
- 14 5. The failure to comply with this order will result in a recommendation that this action
15 be dismissed.

16
17 IT IS SO ORDERED.

18 **Dated: February 18, 2009**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE