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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIE LEE CARPENTER,)	CASE NO. 1:07-cv-00114-AWI-SMS PC
)	
Plaintiff,)	ORDER CLARIFYING COGNIZABLE
)	CLAIMS AND GRANTING PLAINTIFF'S
v.)	MOTIONSTO CORRECT ERROR/MISTAKE
)	
W.J. SULLIVAN, et al.)	(Docs. 59, 60, 63, and 64)
)	
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. The Court screened Plaintiff's September 17, 2008, First Amended Complaint pursuant to 28 U.S.C. § 1915A and found that it stated cognizable claims for relief under 42 U.S.C. § 1983 against Defendant Litton for excessive force and against Defendants A. Salazar and J. Martins for failing to protect Plaintiff, in violation of the Eighth Amendment. Accordingly, on April 13, 2010, an Order issued directing Plaintiff to complete USM 285 forms for service in this action. (Doc. 60.)

Plaintiff filed a motion (Doc. 63) correctly noting that the Order directing Plaintiff to file USM 285 forms for service contained a clerical error in that it incorrectly listed Defendant W. J. Sullivan as a defendant upon whom service was appropriate a second time instead of listing Defendant Litton.¹ (Doc. 60.) That same order also found that Plaintiff had stated a cognizable claim against Defendant "J. Martins" instead of "J. Martinez" for filing to protect Plaintiff. (*Id.*) Thus, the April 13, 2010 Order finding service appropriate on Defendants W.J. Sullivan, A.

¹ Defendant W.J. Sullivan has already been served in this action. (Doc. 42.)

1 Salazar, and J. Martins should have stated that it found service appropriate on Defendants Litton,
2 A. Salazar, and J. Martinez. Plaintiff correctly submitted USM 285 forms for service on
3 Defendants Litton, A. Salazar, and J. Martinez which have been forwarded to the U.S. Marshall
4 for service. (Doc. 65.)

5 The second motion Plaintiff filed on May 4, 2010 (Doc. 64) notes that the April 13, 2010
6 Order incorrectly stated the dates of Plaintiff's claims against Defendant Litton for excessive
7 force as having occurred on January 20, 2005 and against Defendants A. Salazar and J. Martinez
8 for failure to protect as having occurred on June 6, 2004. (Doc. 59, 2:9-11.) In the second
9 motion, Plaintiff correctly notes that the First Amended Complaint alleges Defendant Litton's
10 acts of excessive force occurred on June 6, 2004 (Doc. 17, ¶ 16), and that Defendants A. Salazar
11 and J. Martinez allegedly failed to protect Plaintiff on January 20, 2005 (Doc. 17, ¶¶ 28-29) –
12 which are the claims and dates upon which Plaintiff is proceeding against these three Defendants.

13 For clarification purposes, this action is proceeding on Plaintiff's First Amended
14 Complaint (Doc. 17) which states a claim for relief against Defendants Gonzalez, Barrajas, Ortiz,
15 and Litton for use of excessive force on June 6, 2004; against Defendant Pfeil for excessive force
16 on January 20, 2005; against Defendants A. Salazar and J. Martinez for failure to protect on
17 January 20, 2005; and against Defendants Sullivan, Evans, and Carrasco for failure to protect via
18 policy implementation.

19 Accordingly, it is HEREBY ORDERED that the April 13, 2010 Order (Doc. 60) finding
20 service appropriate on Defendants W.J. Sullivan, A. Salazar, and J. Martins is hereby corrected
21 to state that it found service appropriate on Defendants Litton, A. Salazar, and J. Martinez; and
22 the April 13, 2010 Order (Doc. 59) is hereby corrected to state the dates of Plaintiff's claims
23 against Defendant Litton for excessive force allegedly occurred on June 6, 2004 and against
24 Defendants A. Salazar and J. Martinez for failure to protect allegedly occurred on January 20,
25 2005.

26 IT IS SO ORDERED.

27 **Dated:** May 11, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE