

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**  
EASTERN DISTRICT OF CALIFORNIA

LEROY DEWITT HUNTER,	CASE NO. 1:07-cv-01126-AWI-SMS PC
Plaintiff,	ORDER DISMISSING EQUAL PROTECTION
v.	CLAIM FOR FAILURE TO STATE A CLAIM
	(Docs. 31, 33, and 34)
DONNY YOUNGBLOOD, et al.,	
Defendants.	

---

Plaintiff Leroy Dewitt Hunter, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 3, 2007. On January 14, 2011, the Court screened Plaintiff’s second amended complaint and found that Plaintiff stated a cognizable claim for relief against Defendant Parker for use of excessive force, in violation of the Due Process Clause, but it did not state a cognizable equal protection claim.<sup>1</sup> 28 U.S.C. § 1915A. Plaintiff was ordered to either file a third amended complaint or notify the Court of his willingness to proceed only on his excessive force claim. On January 28, 2011, Plaintiff filed a notice of his willingness to proceed on the excessive force claim. Accordingly, it is **HEREBY ORDERED** that:

1. This action shall proceed on Plaintiff’s second amended complaint, filed December 16, 2010, against Defendant Parker for use of excessive force; and

///  
///

---

<sup>1</sup> Plaintiff appears to have been a pretrial detainee at the time of the incident.

1           2.       Plaintiff's equal protection claim is dismissed for failure to state a claim.

2  
3 IT IS SO ORDERED.

4 Dated: February 2, 2011

  
\_\_\_\_\_  
CHIEF UNITED STATES DISTRICT JUDGE

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