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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN THOMAS,	1:07-cv-01165-AWI-GSA-PC
Plaintiff,	ORDER FINDING SERVICE OF COMPLAINT
v.	APPROPRIATE, AND FORWARDING
CALIFORNIA DEPARTMENT OF	SERVICE DOCUMENTS TO PLAINTIFF FOR
CORRECTIONS AND	COMPLETION AND RETURN WITHIN
REHABILITATION, et al.,	THIRTY DAYS
Defendants.	(Doc. 11.)

Plaintiff John Thomas (“Plaintiff”) 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 this action on July 5, 2007, in the U.S. District Court for the Northern District of California. Plaintiff’s complaint was transferred to this Court on July 27, 2007, and received on August 10, 2007. (Docs 1, 2.) Plaintiff filed an amended complaint on November 19, 2007. (Doc. 11.) The Court screened Plaintiff’s amended complaint pursuant to 28 U.S.C. § 1915A, and found that it states a cognizable claim only against Defendant Sgt. R. Cox, for excessive force in violation of the Eighth Amendment.¹ Fed. R.

¹ In findings and recommendations issued concurrently with this Order, the Court dismisses Plaintiff’s claims against the California Department of Corrections and Rehabilitation (“CDCR”), Carrillo (Correctional Officer), A. Hedgpeth (Warden), S. L. Kays (Assistant Warden), J.D. Soto (Captain), Donald Schroeder (Lieutenant), S. Simpson (Lieutenant), L. Garcia (Medical Technical Assistant), and A. Diza-Albarran (Correctional Officer) based on Plaintiff’s failure to state a claim against them.

1 Civ. P. 8(a); Erickson v. Pardus, 127 S.Ct. 2197, 2200 (2007); Alvarez v. Hill, 518 F.3d 1152, 1157-
2 58 (9th Cir. 2008). Accordingly, it is HEREBY ORDERED that:

3 1. Service is appropriate for the following defendant:

4 SGT. R. COX

5 2. The Clerk of the Court shall send Plaintiff one (1) USM-285 form, one (1) summons,
6 a Notice of Submission of Documents form, an instruction sheet and a copy of the
7 amended complaint filed November 19, 2007 (Doc. 11).

8 3. Within **thirty (30) days** from the date of this order, Plaintiff shall complete the
9 attached Notice of Submission of Documents and submit the completed Notice to the
10 Court with the following documents:

11 a. Completed summons;

12 b. One completed USM-285 form for the defendant listed above; and

13 c. Two (2) copies of the endorsed amended complaint filed November 19, 2007.

14 4. Plaintiff need not attempt service on Defendant and need not request waiver of
15 service. Upon receipt of the above-described documents, the Court will direct the
16 United States Marshal to serve the above-named defendant pursuant to Federal Rule
17 of Civil Procedure 4 without payment of costs.

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

20
21 IT IS SO ORDERED.

22 Dated: August 17, 2009

23 /s/ Gary S. Austin
24 UNITED STATES MAGISTRATE JUDGE
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