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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL W. HUDSON,

1:08-cv-00249-SMS-PC

Plaintiff,

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

v.

TERRY BRIAN, et al.,

Defendants.

(Doc. 1)

Plaintiff Michael W. Hudson (“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 February 20, 2008. On March 7, 2008, Plaintiff consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1), and no other party has appeared in this action. (Doc. 4.) On July 17, 2009, this action was assigned to the undersigned for all further proceedings, including trial and final judgment. (Doc. 8.)

On July 31, 2009, the Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A and found that it states a cognizable claim for relief under section 1983 against defendants Terry Brian and Robert Volker (“Defendants”) for retaliation in violation of the First Amendment, based on the events that occurred on July 2, 2007. (Doc. 10.) Plaintiff was given leave to either file an amended complaint or notify the Court that he is agreeable to proceeding only with the claim found cognizable by the Court. Id. On July 31, 2009, Plaintiff filed written notice to the Court that he

1 wishes to proceed only with the claim found cognizable by the Court. (Doc. 11.)¹ Fed. R. Civ. P.
2 8(a); Swierkiewicz v. Sorema N. A., 534 U.S. 506, 512-15 (2002); Austin v. Terhune, 367 F.3d
3 1167, 1171 (9th Cir. 2004); Jackson v. Carey, 353 F.3d 750, 754 (9th Cir. 2003); Galbraith v. County
4 of Santa Clara, 307 F.3d 1119, 1125-26 (9th Cir. 2002). Accordingly, it is HEREBY ORDERED
5 that:

6 1. Service is appropriate for the following defendants:

7 TERRY BRIAN

8 ROBERT VOLKER

9 2. The Clerk of the Court shall send Plaintiff two (2) USM-285 forms, two (2)
10 summonses, a Notice of Submission of Documents form, an instruction sheet and a
11 copy of the complaint filed February 20, 2008 (Doc. 1).

12 3. Within **thirty (30) days** from the date of this order, Plaintiff shall complete the
13 attached Notice of Submission of Documents and submit the completed Notice to the
14 court with the following documents:

15 a. Completed summonses;

16 b. One completed USM-285 form for each Defendant listed above; and

17 c. Three (3) copies of the endorsed complaint filed February 20, 2008.

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

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

24
25 IT IS SO ORDERED.

26 **Dated: August 10, 2009**

27 /s/ Sandra M. Snyder
28 UNITED STATES MAGISTRATE JUDGE

¹ In an Order issued concurrently with this order, the Court dismissed plaintiff's Due Process claim for failure to state a claim upon which relief may be granted under section 1983.