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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JARROD GORDON,

CASE NO. 1:08-cv-00305-GSA PC

Plaintiff,

ORDER PROVIDING THAT THIS ACTION
PROCEED ON PLAINTIFF’S EIGHTH
AMENDMENT CLAIM AND THAT
PLAINTIFF’S SUPERVISORY LIABILITY
CLAIM BE DISMISSED, AND FORWARDING
SERVICE DOCUMENTS TO PLAINTIFF FOR
COMPLETION AND RETURN WITHIN
THIRTY DAYS

v.

C.O. WELCH, et al.,

Defendants.

(Doc. 1)

_____ /

Order Following Screening of Plaintiff’s Complaint

Plaintiff Jarrod Gordon is a prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed his complaint on March 3, 2008. On March 26, 2008, Plaintiff consented to jurisdiction by a U.S. Magistrate Judge (Doc. 4).

On July 23, 2009, this Court issued a screening order pursuant to 28 U.S.C. § 1915A, finding that Plaintiff’s complaint stated claims against defendants Welch, Person, Huerra, Gorey, Bievlve, and Smalley for deliberate indifference to serious medical needs in violation of the Eighth Amendment but did not state any cognizable claims for relief against defendant Warden of North Kern State Prison (Doc. 9). Plaintiff was ordered either to file an amended complaint or to notify the Court of his willingness to proceed only on the claims found to be cognizable by the Court.

1 On August 5, 2009, Plaintiff notified the Court that he is willing to proceed only on his
2 cognizable claims against defendants Welch, Person, Huerra, Gorey, Bievlve, and Smalley (Doc.
3 10). Based on Plaintiff's notice, this Court now issues this Order.

4 It is **HEREBY ORDERED** that:

5 1. This action shall proceed on Plaintiff's complaint, filed March 3, 2008, against
6 defendants Welch, Person, Huerra, Gorey, Bievlve, and Smalley for deliberate
7 indifference to serious medical need in violation of the Eighth Amendment to the
8 U.S. Constitution.

9 2. Plaintiff's claims against defendant Warden of North Kern State Prison are
10 dismissed, with prejudice, for failure to state a claim upon which relief may be
11 granted under §1983.

12 3. The Clerk of Court is directed to reflect on the docket the dismissal of the
13 defendant Warden of North Kern State Prison.

14 3. Service is appropriate for the following Defendants:

- 15 C/O Welch,
- 16 C/O Person,
- 17 C/O Huerra,
- 18 C/O Gorey,
- 19 C/O Bievlve, and
- 20 C/O Smallie.

21 4. The Clerk of Court shall send Plaintiff six (6) USM-285 forms, six (6)
22 summonses, a Notice of Submission of Documents form, an instruction sheet and
23 a copy of the Plaintiff's complaint filed March 3, 2008.

24 5. Within **thirty (30) days** from the date of this order, Plaintiff shall complete the
25 attached Notice of Submission of Documents and submit the completed Notice to
26 the court with the following documents:

- 27 a. Completed summons;

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- b. One completed USM-285 form for each defendant listed above; and
 - c. Three (3) copies of the endorsed complaint filed March 3, 2008.
6. Plaintiff need not attempt service on Defendants and need not request waiver of service. Upon receipt of the above-described documents, the Court will direct the United States Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.
7. **The failure to comply with this order will result in a recommendation that this action be dismissed.**

IT IS SO ORDERED.

Dated: August 7, 2009

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE