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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LUIS GORDIANO VERGARA,

Plaintiff,

v.

D. DATRAY, et al.,

Defendants.

CASE NO. 1:08-cv-00609-LJO-DLB PC

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

Plaintiff Luis Gordiano Vergara (“Plaintiff”) is a federal prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), which provides a remedy for violation of civil rights by federal actors. The Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, and found that it states cognizable claims against Defendants D. Datray, Cobbs, Cole, and Orosco for failure to protect in violation of the Eighth Amendment.¹ Fed. R. Civ. P. 8(a); Erickson v. Pardus, 127 S.Ct. 2197, 2200 (2007); Alvarez v. Hill, 518 F.3d 1152, 1157-58 (9th Cir. 2008). Accordingly, it is HEREBY ORDERED that:

1. Service is appropriate for the following defendants:

LIEUTENANT D. DATRAY

LIEUTENANT COBBS

¹ In a Findings and Recommendations issued concurrently with this Order, the Court recommended that defendants Silva and Shank be dismissed from this action for Plaintiff’s failure to state any claims upon which relief may be granted.

1 UNIT MANAGER OROSCO

2 OFFICER COLE

- 3 2. The Clerk of the Court shall send Plaintiff four (4) USM-285 forms, four (4)
4 summonses, a Notice of Submission of Documents form, an instruction sheet and
5 a copy of the complaint filed May 2, 2008.
- 6 3. Within **thirty (30) days** from the date of this order, Plaintiff shall complete the
7 attached Notice of Submission of Documents and submit the completed Notice to
8 the Court with the following documents:
- 9 a. Completed summons;
 - 10 b. One completed USM-285 form for each defendant listed above; and
 - 11 c. Five (5) copies of the endorsed complaint filed May 2, 2008.
- 12 4. Plaintiff need not attempt service on Defendants and need not request waiver of
13 service. Upon receipt of the above-described documents, the Court will direct the
14 United States Marshal to serve the above-named defendants pursuant to Federal
15 Rule of Civil Procedure 4 without payment of costs.
- 16 5. The failure to comply with this order will result in a recommendation that this
17 action be dismissed.

18
19 IT IS SO ORDERED.

20 Dated: February 18, 2009

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE