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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LEONARD RANSOM, JR.,  
Plaintiff,  
vs.  
DANNY HERRERA, et al.,  
Defendants.

1:11-cv-01709-GSA-PC

ORDER FOR THIS ACTION TO  
PROCEED AGAINST DEFENDANTS  
BRANNUM AND HERRERA FOR  
CONSPIRACY, AND AGAINST  
DEFENDANT CASTRO FOR  
VIOLATION OF DUE PROCESS, AND  
DISMISSING ALL OTHER CLAIMS  
AND DEFENDANTS FROM THIS  
ACTION

ORDER FINDING SERVICE OF  
COMPLAINT APPROPRIATE AND  
DIRECTING PLAINTIFF TO INITIATE  
SERVICE OF PROCESS UPON  
DEFENDANTS  
(Doc. 1.)

ONE HUNDRED-TWENTY (120) DAY  
DEADLINE TO COMPLETE  
SERVICE

**I. BACKGROUND**

Leonard Ransom, Jr. ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on October 13, 2011. (Doc. 1.) On November 21, 2011, Plaintiff filed the \$350.00 filing fee for this action. (Court Record.)

1 On October 25, 2011, Plaintiff consented to Magistrate Judge jurisdiction in this action  
2 pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 4.)  
3 Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of  
4 California, the undersigned shall conduct any and all proceedings in the case until such time as  
5 reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

6 The court screened Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A and entered an  
7 order on August 12, 2014, requiring Plaintiff to either file an amended complaint or notify the  
8 court that he is willing to proceed only on the claims found cognizable by the court. (Doc. 9.)  
9 On August 27, 2014, Plaintiff filed a notice informing the court that he is willing to proceed  
10 only on the cognizable claims. (Doc. 11.) On September 2, 2014, Plaintiff filed a motion for  
11 clarification of the court's screening order and a motion for extension of time to file an  
12 amended complaint. (Docs. 12, 13.) On September 4, 2014, the court granted Plaintiff an  
13 extension of time and responded to the motion for clarification. (Doc. 14.) On September 17,  
14 2014, Plaintiff filed a notice informing the court that after receipt of the court's clarification  
15 order, there is no need to amend the complaint, and he now wishes to proceed only on the  
16 cognizable claims against defendants Sergeant Ricky Brannum and Correctional Officer Danny  
17 Herrera for conspiracy, and against defendant Lieutenant L. Castro for violation of due process

18 The Court finds Plaintiff's Complaint appropriate for service.

19 **II. SERVICE OF PROCESS BY PLAINTIFF**

20 Plaintiff paid the filing fee in full for initiating this action. Because Plaintiff is not  
21 proceeding in forma pauperis, it is Plaintiff's responsibility to effect service of the summons  
22 and Complaint upon the Defendants. The Clerk of the Court will be directed to issue three  
23 summonses to Plaintiff for the purpose of service of process. Fed. R. Civ. P. 4.

24 Plaintiff shall complete service of process in accordance with Federal Rule of Civil  
25 Procedure 4 **within one-hundred twenty (120) days** from the date of service of this order.  
26 Plaintiff shall serve a copy of this order on each Defendant together with a copy of the  
27 summons and Complaint. The following two sections contain instructions on how to serve  
28 Defendants.

1           **A.     Waiver of Service**

2           Pursuant to Rule 4(d)(2), Plaintiff may (but is not required to) notify Defendants of the  
3 commencement of this action and request that they waive service of the summons. Fed. R. Civ.  
4 P. 4(d)(1). If Plaintiff wishes to do this, he must mail each Defendant (1) the form entitled  
5 “Notice of Lawsuit and Request for Waiver of Service for Summons,” (2) the form entitled  
6 “Waiver of Service of Summons,” and (3) a copy of the Complaint. The documents must be  
7 addressed directly to each Defendant (not the Attorney General’s Office) and must be  
8 dispatched (mailed) through first-class mail. The Waiver of Service of Summons form must set  
9 forth the date on which the request is sent and must allow each Defendant at least thirty (30)  
10 days in which to return the waiver to Plaintiff. If Defendants sign and return the waiver forms  
11 to Plaintiff, Plaintiff must then file the forms with the Court. After filing the forms with the  
12 Court, Plaintiff need not take any further steps to serve Defendants. Fed. R. Civ. P. 4(d)(4).

13           **B.     Personal Service**

14           If either (1) Plaintiff does not wish to request Defendants to waive service or (2) one or  
15 more of the Defendants fail to return the Waiver of Service of Summons form to Plaintiff,  
16 Plaintiff must have personal service effected on Defendants. Each Defendant must be  
17 personally served with a summons and copy of the Complaint, along with a copy of this order.  
18 Plaintiff may not effect personal service himself. Fed. R. Civ. P. 4(c). Service may be effected  
19 by any person who is not a party to this action and who is at least eighteen years old. Id. The  
20 Court will provide Plaintiff with a copy of Rule 4 along with this order. Plaintiff should review  
21 Rule 4(e)(2), which addresses how personal service may be effected. After personal service is  
22 effected on Defendants, Plaintiff must file proof of service with the Court. Fed. R. Civ. P. 4(l).

23           **III.    CONCLUSION**

24           Accordingly, it is HEREBY ORDERED that:

- 25           1.     This action now proceeds against defendants Sergeant Ricky Brannum and  
26                 Correctional Officer Danny Herrera for conspiracy, and against defendant  
27                 Lieutenant L. Castro for violation of due process;

- 1 2. All remaining claims and defendants are dismissed from this action based on  
2 Plaintiff's failure to state a claim;
- 3 3. Defendant Registered Nurse Alan Davis is **DISMISSED** from this action based  
4 on Plaintiff's failure to state any claims against him upon which relief may be  
5 granted under section 1983;
- 6 4. Plaintiff's claims for violation of equal protection are **DISMISSED** from this  
7 action for failure to state a claim under section 1983;
- 8 5. Service is appropriate for the following Defendants:
- 9 **SERGEANT RICKY BRANNUM**  
10 **CORRECTIONAL OFFICER DANNY HERRERA**  
11 **LIEUTENANT L. CASTRO**
- 12 6. The Clerk is **DIRECTED** to reflect the dismissal of defendant Davis from this  
13 action on the court's docket;
- 14 7. The Clerk is directed to issue and send Plaintiff three (3) summonses for  
15 Defendants Brannum, Herrera, and Castro.
- 16 8. The Clerk is further directed to send Plaintiff:
- 17 a) One (1) copy of the Complaint filed October 13, 2011 (Doc. 1);  
18 b) One (1) copy of the form entitled "Notice of Lawsuit and Request for  
19 Waiver of Service of Summons;"  
20 c) One (1) copy of the form entitled "Waiver of Service;" and  
21 d) One (1) copy of Rule 4 of the Federal Rules of Civil Procedure
- 22 9. Plaintiff shall complete service of process on Defendants Brannum, Herrera, and  
23 Castro within **one-hundred twenty (120) days** from the date of service of this  
24 order. Plaintiff shall serve a copy of this order on Defendants at the time of  
25 service of the summons and Complaint; and

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