

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL LEE,  
  
Plaintiff,  
  
vs.  
  
UNITED STATES, et al.,  
  
Defendants.

1:12-cv-00779-GSA-PC  
  
ORDER DISMISSING ACTION IN ITS ENTIRETY  
  
ORDER DISMISSING PLAINTIFF'S CLAIMS REGARDING MEDICAL CARE AT USP ATWATER, WITH PREJUDICE, AS TIME BARRED  
  
ORDER DISMISSING PLAINTIFF'S CLAIMS REGARDING CONDUCT AT USP VICTORVILLE, WITHOUT PREJUDICE, FOR IMPROPER VENUE  
  
ORDER FOR CLERK TO CLOSE CASE

Michael Lee ("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 the Federal Bureau of Narcotics, 403 U.S. 388 (1971). Plaintiff filed the Complaint commencing this action on January 4, 2012. (Doc. 1.) On May 23, 2012, Plaintiff consented to Magistrate Judge jurisdiction in this action pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 3.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall conduct any and all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

On October 10, 2013, the Court issued an order to show cause, requiring Plaintiff to file a response within thirty days, showing (1) why his claims regarding conduct at USP Victorville

1 should not be dismissed, without prejudice, for improper venue, and (2) why his claims  
2 regarding medical care at USP Atwater should not be dismissed, with prejudice, as time barred.  
3 (Doc. 17.) On November 14, 2013, upon Plaintiff's motion, the Court granted plaintiff a thirty-  
4 day extension of time to respond to the court's order. (Docs. 19, 20.) Plaintiff's latest thirty-  
5 day deadline has now passed, and plaintiff has not filed any response to the court's order.

6 Accordingly, based on the findings in the Court's order to show cause issued on  
7 October 10, 2013, the Court shall (1) dismiss plaintiff's claims regarding conduct at USP  
8 Victorville for improper venue, without prejudice, and (2) dismiss plaintiff's claims regarding  
9 medical care at USP Atwater as time barred, with prejudice, dismissing this action in its  
10 entirety.

11 Therefore, based on the foregoing, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's claims regarding conduct at USP Victorville are DISMISSED for  
13 improper venue, without prejudice to filing a new action in the United States  
14 District Court for the Central District of California;
  - 15 2. Plaintiff's claims regarding medical care at USP Atwater are DISMISSED, with  
16 prejudice, as time barred, dismissing this case in its entirety; and
  - 17 3. The Clerk of Court is directed to close this case.
- 18  
19  
20

21 IT IS SO ORDERED.

22 Dated: December 31, 2013

/s/ Gary S. Austin  
23 UNITED STATES MAGISTRATE JUDGE  
24  
25  
26  
27  
28