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7	UNITED STATES DISTRICT COURT	
8	EASTERN DISTRICT OF CALIFORNIA	
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10	C. DWAYNE GILMORE,	1:12-cv-00925-GSA-PC
11	Plaintiff,	ORDER DENYING MOTIONS FOR COURT TO ORDER IMMEDIATE SERVICE AND SET
12	V.	PRETRIAL DEADLINES
13	D. AUGUSTUS, et al.,	(Docs. 4, 9.)
14	Defendants.	
15	//	

C. Dwayne Gilmore ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on June 7, 2012. (Doc. 1.) On June 7, 2012, Plaintiff filed a motion for the court to initiate service of process and set pretrial deadlines in this action. (Doc. 4.) On June 29, 2012, Plaintiff filed a motion for an order directing service. (Doc. 9.)

The court is required by law to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity, such as the instant action brought pursuant to 42 U.S.C. § 1983. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2). 

With respect to service, the court will, sua sponte, direct the United States Marshal to serve the complaint only after the court has screened the complaint and determined that it contains

cognizable claims for relief against the named defendants. On February 20, 2013, after screening
Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A, the Court dismissed the Complaint for failure
to state a claim, with leave to amend. (Doc. 10.) Thus, the Court determined that the Complaint did
not contain any cognizable claims, and therefore it is not time for service in this action.

As a rule, pretrial deadlines are not set until after one or more of the defendants files an Answer. In this case, none of the defendants have filed an Answer. Therefore, it is not time for the Court to set pretrial deadlines in this action.

Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motions for immediate service and for the Court to set pretrial deadlines, filed on June 7, 2012 and June 29, 2012, are DENIED.

IT IS SO ORDERED.

Dated: <u>February 20, 2013</u>

/s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE