

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KEVIN T. FLEMINGS, ) 1:14-cv-01248 LJO DB PC  
Plaintiff, ) ORDER FINDING SERVICE OF  
vs. ) COMPLAINT APPROPRIATE AND  
C. GRAY, et al., ) FORWARDING SERVICE DOCUMENTS  
Defendants. ) TO PLAINTIFF FOR COMPLETION AND  
 ) RETURN WITHIN **THIRTY DAYS**  
 )  
 )  
 )

Plaintiff Kevin T. Flemings (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. Plaintiff filed this action on August 8, 2014. On July 17, 2015, the Court screened the Complaint and determined that Plaintiff stated the following cognizable claims: (1) violation of Plaintiff’s procedural due process rights by Defendants Gray, Timmons, and White; and (2) violation of the Eighth Amendment’s prohibition against cruel and unusual punishment against Defendants Gray, Timmons, and White. The Court found that the Complaint did not state any further claims against any other Defendants. Plaintiff was ordered to either file a notice of willingness to proceed with the cognizable claims, or an amended complaint. On July 27, 2015, Plaintiff notified the Court of his willingness to proceed only on the cognizable claims stated above. Therefore, by separate order, the Court will recommend dismissal of all other claims and Defendants.

1 Pursuant to 28 U.S.C. § 1915A, the Court finds that Plaintiff states the following claims:  
2 (1) violation of Plaintiff's procedural due process rights by Defendants Gray, Timmons, and  
3 White; and (2) violation of the Eighth Amendment's prohibition against cruel and unusual  
4 punishment against Defendants Gray, Timmons, and White. Fed. R. Civ. P. 8(a); Ashcroft v.  
5 Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007).  
6 The claim arises out of incidents which occurred in 2014.

7 Accordingly, it is HEREBY ORDERED that:

8 1. Service shall be initiated on the following Defendants:

9 **Correctional Officer C. Gray, Wasco State Prison**

10 **Correctional Sergeant Timmons, Wasco State Prison**

11 **Correctional Officer Darren White, Wasco State Prison**

12 2. The Clerk of the Court shall send Plaintiff three (3) USM-285 forms, three (3)  
13 summonses, a Notice of Submission of Documents form, an instruction sheet and a copy of  
14 complaint filed on August 8, 2014.

15 3. Within thirty (30) days from the date of this order, Plaintiff shall complete the  
16 attached Notice of Submission of Documents and submit the completed Notice to the Court with  
17 the following documents:

18 a. One completed summons for each Defendant;  
19 b. One completed USM-285 form for each Defendant; and  
20 c. Four (4) copies of the endorsed complaint filed on August 8, 2014.

21 4. Plaintiff need not attempt service on Defendant and need not request waiver of  
22 service. Upon receipt of the above-described documents, the Court will direct the United States  
23 Marshal to serve the above-named Defendant pursuant to Federal Rule of Civil Procedure 4  
24 without payment of costs.

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5. The failure to comply with this order will result in a recommendation that this action be dismissed.

IT IS SO ORDERED.

Dated: August 3, 2015

/s/ Dennis L. Beck

UNITED STATES MAGISTRATE JUDGE