

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JON L. NYLAND,

Plaintiff,

VS.

CALAVERAS COUNTY SHERIFF'S JAIL,
et al.,

Defendants.

1:15-cv-00886-GSA-PC

**ORDER CLARIFYING DEFENDANTS
AND CLAIMS REMAINING IN THIS
CASE**

I. BACKGROUND

Jon L. Nyland (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on June 11, 2015. (ECF No. 1.) On July 17, 2015, the court dismissed the Complaint for failure to state a claim, with leave to amend. (ECF No. 13.) On July 24, 2015, Plaintiff filed the First Amended Complaint. (ECF No. 16.)

In the First Amended Complaint, Plaintiff named six defendants, (1) Nurse Joy Lynch, (2) Doctor McKay, (3) Correctional Officer Keith Vincent, (4) Correctional Officer Mattos, (5) Correctional Officer Manning, and (6) Sergeant John Bailey. On June 16, 2016, the court dismissed the case in its entirety, with prejudice, and entered judgment. (ECF Nos. 24, 25.)

1 On July 5, 2016, Plaintiff filed a notice of appeal. (ECF No. 26.) On April 24, 2017,
2 the Ninth Circuit affirmed in part, reversed in part, and vacated in part the judgment, and
3 remanded the case to the district court for further proceedings. (ECF No. 31.) “In sum, [the
4 Ninth Circuit] reverse[d] the dismissal of [Plaintiff]’s First Amendment retaliation and due
5 process claims as to defendant Bailey; vacate[d] the dismissal of [Plaintiff]’s claims of
6 improper legal mail interference as to defendants Mattos and Manning; and remand[ed] the
7 case for further proceedings.” (Id. at 6.) This court reopened the case for further proceedings
8 against defendants Bailey, Mattos, and Manning.

9 **II. DEFENDANTS BAILEY, MATTOS, AND MANNING**

10 On June 15, 2017, pursuant to the Ninth Circuit’s order, the court forwarded service
11 documents to Plaintiff for completion and return, (ECF No. 33), and on July 5, 2017, the court
12 issued an order directing the United States Marshal (Marshal) to serve the three defendants,
13 Bailey, Mattos, and Manning (ECF No. 35).

14 However, the court incorrectly used the name “C/O Keith Vincent Mattos” for
15 defendant “C/O Mattos” in the June 15, 2017, and July 5, 2017, orders. (ECF Nos. 33, 35.) It
16 appears that the court inadvertently combined the names of two of the defendants from the First
17 Amended Complaint -- C/O Keith Vincent and C/O Mattos -- and erroneously named as
18 defendant “C/O Keith Vincent Mattos.”

19 Despite the court’s error, Plaintiff submitted service documents to the court appropriate
20 for service using the three defendants’ correct names, (1) Sergeant John Bailey, (2) C/O
21 Mattos, and (3) C/O Manning, and on August 4, 2017 and August 14, 2017, the Marshal
22 returned Waivers of Service signed by the three defendants. (See ECF Nos. 36, 37.) The
23 Waiver of Service for defendant C/O Mattos was dated July 28, 2017, and signed by “Talya
24 Mattos.” (ECF No. 36 at 1.) Based upon this record, the court finds that this case now
25 proceeds against defendant Sergeant John Bailey for retaliation and due process claims, and
26 against defendants C/O Mattos and C/O Manning for improper legal mail interference.

27 The court shall direct the Clerk to correctly reflect defendant Mattos’ name on the
28 court’s docket.

III. CONCLUSION

Based on the foregoing, IT IS HEREBY ORDERED that:

1. This case now proceeds against defendant Sergeant John Bailey for retaliation and due process claims, and against defendants C/O Mattos and C/O Manning for improper legal mail interference; and
2. The Clerk is directed to correctly reflect the name of defendant Mattos on the court's docket, replacing the incorrect name "C/O Keith Vincent Mattos" with the correct name "C/O Mattos."

IT IS SO ORDERED.

Dated: **September 8, 2017**

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE