

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

DESHAWN D. LESLIE,

Plaintiff,

v.

MADRIGAL, et al.,

Defendants.

No. 1:16-cv-01698-SKO (PC)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO CORRECT
THE RECORD
(Doc. 19)**

**ORDER WITHDRAWING ORDER
DIRECTING USM TO SERVE THE
SECOND AMENDED COMPLAINT
(Doc. 18)**

TWENTY-ONE (21) DAY DEADLINE

Plaintiff, Deshawn D. Leslie, is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On November 28, 2017, the Court screened Plaintiff’s Second Amended Complaint pursuant to 28 U.S.C. § 1915A and found that it states cognizable claims for relief under section 1983 against Defendant Officers Oscar M. Madrigal and Darren Brown and that service was proper. (Doc. 16.) Plaintiff submitted documents for service and an order issued directing the USM to serve the Second Amended Complaint on the Defendants. (Docs. 17, 18.)

On December 22, 2017, Plaintiff filed a motion indicating that he mistakenly typed 2017 as the year for the dates of incident in Claim I, when the events actually occurred in 2016. (Doc. 19.) Plaintiff seeks leave to correct this error before the Second Amended Complaint is served on the Defendants. (Id.)

//

1 Rule 60(a) of the Federal Rules of Civil Procedure provides that a court “may correct a
2 clerical mistake or a mistake arising from oversight or omission whenever one is found in a
3 judgment, order, or other part of the record. The court may do so on motion or on its own, with
4 or without notice. . . .” Plaintiff will be allowed to correct the error in his operative pleading.
5 However, Plaintiff’s pleading must be “complete in itself” without reference to prior pleadings,
6 Local Rule 220, and Plaintiff need only be given opportunity to correct the identified defect.

7 Thus, a copy of the Second Amended Complaint will be sent to Plaintiff. Plaintiff is
8 authorized to draw a line through and correct the year in Claim I from 2017 to 2016, and shall
9 place his initials next to this change. Plaintiff is also authorized to write “Third Amended” above
10 “Civil Rights Complaint By a Prisoner” and to draw a line through the box that he checked which
11 indicated it was a second amended complaint on the first page. No other corrections or changes
12 are authorized. Plaintiff shall return the corrected document to the Court for filing.

13 Accordingly, it is **HEREBY ORDERED** that:

- 14 (1) Plaintiff’s motion to correct the record, filed on December 22, 2017, (Doc. 19), is
15 **GRANTED**;
- 16 (2) The order directing the United States Marshall to serve the Second Amended
17 Complaint, which issued on December 21, 2017, (Doc. 18), is **WITHDRAWN**;
- 18 (3) The Clerk of the Court is directed to send a copy of this order to the United States
19 Marshall’s office which is relieved from the duty of serving the Second Amended
20 Complaint on Defendants as directed in the December 21, 2017, service order;
- 21 (4) The Clerk of the Court is directed to send Plaintiff a copy of the Second Amended
22 Complaint (Doc. 15) with service of this order; and
- 23 (5) **Within twenty-one (21) days** of the date of service of this order, Plaintiff shall
24 file the corrected pleading, which will be filed as a third amended complaint.

25
26 IT IS SO ORDERED.

27 Dated: **December 27, 2017**

28 /s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE