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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELVIS VENABLE,
Plaintiff,
v.
PATEL,
Defendant.

Case No. 1:17-cv-01519-BAM (PC)
**ORDER GRANTING IN PART PLAINTIFF’S
MOTION REQUESTING DOCUMENTS
AND CORRECTING CLAIMS**
(ECF No. 51)

Plaintiff Elvis Venable (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s claim against Defendant Patel for nominal, compensatory, and punitive damages resulting from Defendant Patel’s alleged violation of Plaintiff’s Eighth Amendment rights. All parties have consented to Magistrate Judge jurisdiction. (ECF No. 44.) Pursuant to the Court’s second scheduling order issued on May 18, 2021, trial is currently set to begin on February 14, 2022. (ECF No. 50.)

A telephonic status conference was held on May 18, 2021 to discuss setting deadlines and the trial date in this action. (ECF No. 49.) At the conference, Plaintiff stated that he had requested the return of certain original documents filed with the Court. The Court instructed Plaintiff to submit a written motion after the status conference that specified which documents he needed, why he needed them, and why he did not have his own copies.

1 Currently before the Court is Plaintiff's "Motion Requesting Some of the Petition Filed.
2 The Original 602," filed May 28, 2021. (ECF No. 51.) Plaintiff¹ states that he is filing his
3 motion to request the original 602 filed in this case, and also requesting that the defense correct
4 the penal code that this case is filed under, "to 2254(3)(c) and some other penal code?!?" (*Id.*)
5 Although Defendant Patel has not yet had an opportunity to respond, the Court finds a response
6 unnecessary and the motion is deemed submitted. Local Rule 230(1).

7 As stated in the Court's First Informational Order on November 14, 2017, the Clerk of the
8 Court scans paper documents into the electronic court file and then discards the paper copy, and
9 parties are instructed to never send original exhibits to the Court. (ECF No. 3, p. 2.) As such, the
10 Court cannot send Plaintiff original versions of any documents filed with the Court during the
11 pendency of this case.

12 Furthermore, Plaintiff is reminded that the Court does not provide free copies of case
13 documents to parties, even when a party is proceeding *in forma pauperis*. Ordinarily, the Clerk of
14 Court charges \$0.50 per page for copies of documents. However, based on Plaintiff's
15 representations during the telephonic status conference that his legal work was discarded by
16 correctional officers, the Court will make a one-time exception in this instance. As it appears that
17 Plaintiff attached the 602 related to this action to the original complaint, the Court will direct the
18 Clerk's Office to provide a copy of the original complaint and all attachments at no charge. In the
19 future, if Plaintiff requires copies of other documents filed in this case, he should be more specific
20 and also explain why he needs those documents and why he does not already have copies of
21 them.

22 Plaintiff's request that the defense correct the penal code that his case is filed under is
23 denied. Plaintiff initiated this action by filing a complaint and the Court screened the complaint
24 for any cognizable claims. The case is proceeding on Plaintiff's Eighth Amendment claim
25 against Defendant Patel, and there are no penal codes or state law claims at issue. As it is not
26 clear what correction Plaintiff is requesting, the Court will deny the request.

27 ¹ Although the motion states that it is filed by "Defendant," the Court assumes that Plaintiff is
28 referring to himself.

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Accordingly, it is HEREBY ORDERED that:

1. Plaintiff's motion requesting copies of documents and correcting claims, (ECF No. 51), is GRANTED IN PART and DENIED IN PART, as discussed above; and
2. The Clerk's Office is directed to mail one (1) copy of the original complaint, filed November 14, 2017, (ECF No. 1), to Plaintiff at his current mailing address.

IT IS SO ORDERED.

Dated: June 2, 2021

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE