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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES FRAZIER,

Plaintiff,

No. CIV S-06-0859 LKK DAD P

vs.

A. KONRAD,

Defendant.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief under 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to the undersigned magistrate judge in accordance with Local Rule 72-302 and 28 U.S.C. § 636(b)(1).

Plaintiff's in forma pauperis application makes the showing required by 28 U.S.C. § 1915(a). Accordingly, plaintiff's request for leave to proceed in forma pauperis will be granted.

Plaintiff is required by statute to pay the \$350.00 filing fee in installments when funds are available. See 28 U.S.C. §§ 1914(a) & 1915(b)(1). Plaintiff has been without funds for six months and is currently without funds. Accordingly, the court will not assess an initial partial filing fee. See 28 U.S.C. § 1915(b)(1). In the future, plaintiff will be obligated for

1 monthly payments of twenty percent of the preceding month's income credited to his prison trust
2 account. These payments will be collected and forwarded by the appropriate agency to the Clerk
3 of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is
4 paid in full. See 28 U.S.C. § 1915(b)(2).

5 The undersigned finds that plaintiff's complaint appears to state a cognizable
6 Eighth Amendment claim for relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If
7 the allegations of the complaint are proven, plaintiff has a reasonable opportunity to prevail on
8 the merits of this action.

9 In accordance with the above, IT IS HEREBY ORDERED that:

10 1. Plaintiff's April 21, 2006 application to proceed in forma pauperis is granted.

11 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.

12 The fee shall be collected and paid in accordance with this court's order to the Director of the
13 California Department of Corrections and Rehabilitation filed concurrently herewith.

14 3. Service of the complaint is appropriate for defendant Sergeant A. Konrad.

15 4. The Clerk of the Court shall send plaintiff one USM-285 form, one summons,
16 an instruction sheet, and a copy of the endorsed complaint filed April 21, 2006.

17 5. Within thirty days from the date of this order, plaintiff shall complete the
18 attached Notice of Submission of Documents and shall submit all of the following documents to
19 the court at the same time:

20 a. The completed, signed Notice of Submission of Documents form;

21 b. One completed summons;

22 c. One completed USM-285 form for defendant Sergeant A. Konrad; and

23 d. Two copies of the endorsed complaint filed April 21, 2006.

24 ////

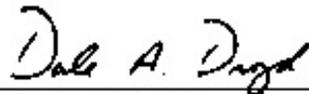
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6. Plaintiff shall not attempt service of the complaint and summons on the defendant or request a waiver of service of summons. Upon receipt of the above-described documents, the court will direct the United States Marshal to serve the defendant pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

DATED: April 26, 2006.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES FRAZIER,

Plaintiff,

No. CIV S-06-0859 LKK DAD P

vs.

A. KONRAD,

Defendant.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____ /

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

- _____ one completed summons form;
- _____ one completed USM-285 form; and
- _____ two true and exact copies of the complaint filed April 21, 2006.

DATED: _____.

Plaintiff