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

BILL BRADY,

Plaintiff,

No. CIV S-06-2298 DFL CMK

vs.

MIKE KELPER, et al.,

Defendants.

ORDER

Plaintiff, proceeding in this action pro se, has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 72-302(c)(21), pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted an affidavit making the showing required by 28 U.S.C. § 1915(a)(1). Plaintiff avers he is unemployed and his only income is \$880.00 a month from a U.S. Veteran’s Pension and Social Security Income; his only asset is a 2001 Ford F350 truck worth approximately \$9,000.00. Accordingly, plaintiff’s request to proceed in forma pauperis will be granted.

The determination that plaintiff may proceed in forma pauperis does not complete the required inquiry. Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss the case at any time if it determines the allegation of poverty is untrue, or if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune

1 defendant. Pro se pleadings are liberally construed. See Haines v. Kerner, 404 U.S. 519, 520-21, 92
2 S. Ct. 594, 595-96 (1972); Balistreri v. Pacifica Police Dep't., 901 F.2d 696, 699 (9th Cir. 1988).

3 Plaintiff's typed three page complaint asserts that his cattle were improperly seized
4 and then sold by the Bureau of Land Management (BLM). The complaint asserts cognizable causes
5 of action against Mike Kelper and Ralph Mauck, who are both BLM officials stationed at the Eagle
6 Lake Field Office for deprivation of his property without proper due process.

7 Plaintiff's complaint lists thirty Doe defendants. The court cannot order service of
8 process upon fictitious defendants. Upon discovering the name of any of the Doe defendants,
9 plaintiff must promptly file a motion for leave to amend, accompanied by a proposed amended
10 complaint identifying the additional defendant or defendants. Plaintiff is warned that undue delay
11 in discovering the defendants' names and seeking leave to amend may result in the denial of leave
12 to proceed against these defendants.

13 Accordingly, IT IS ORDERED that:

14 1. Plaintiff's request to proceed in forma pauperis is granted;

15 2. The Clerk of the Court is directed to issue forthwith, and the U.S. Marshal is
16 directed to serve within ninety days of the date of this order, all process pursuant to Fed. R. Civ.
17 P. 4, including a copy of this court's status order, without prepayment of costs.

18 3. The Clerk of the Court shall send plaintiff six USM-285 forms, one summons, a
19 copy of the complaint, an appropriate form for consent to trial by a magistrate judge, and this court's
20 status order.

21 4. Plaintiff is directed to supply the U.S. Marshal, within 15 days from the date this
22 order is filed, all information needed by the Marshal to effect service of process. The court
anticipates that, to effect service, the U.S. Marshal will require at least:

23 A. One completed summons;

24 B. One completed USM-285 form for each defendant;

25 c. A copy of the endorsed filed amended complaint for each defendant, with
26 an extra copy for the U.S. Marshal; and

1 d. A copy of this court's status order for each defendant.

2 5. In the event the U.S. Marshal is unable, for any reason whatsoever, to effectuate
3 service on any defendant within 90 days from the date of this order, the Marshal is directed to
4 report that fact, and the reasons for it, to the undersigned.

5 6. The plaintiff is directed to send notice to this court, in writing, when he has
6 supplied the U.S. Marshall with the information needed to effect service on defendants.

7 7. The Clerk of the Court is directed to serve a copy of this order on the U.S.
8 Marshal, 501 "I" Street, Sacramento, Ca., 95814, Tel. No. (916) 930-2030.

9 October 19, 2006

10
11 /s/ CRAIG M. KELLISON
12 Craig M. Kellison
13 UNITED STATES MAGISTRATE JUDGE
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