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

MARQUIS VERNARD WALKER,

Plaintiff,

No. CIV S-07-1323 WBS EFB P

vs.

T. FELKER, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On April 22, 2008, the court screened plaintiff’s amended complaint (filed November 19, 2007) and found that for the limited purposes of 28 U.S.C. § 1915A, it stated cognizable claims against all defendants except for defendants Felker and James. The court granted plaintiff thirty days to attempt to amend his complaint to state a cognizable claim against these defendants.

Just prior to the screening order, on April 21, 2008, plaintiff filed a motion to amend his complaint, together with a proposed amended complaint. On May 5, 2008, plaintiff, in an attempt to respond to the court’s April 22, 2008 screening order, moved to supplement his amended complaint to include James as a defendant and to dismiss defendant Felker from this action.

1 The court's April 22, 2008 order already granted plaintiff leave to amend. Accordingly,  
2 the motion to amend is moot. And, since plaintiff's "supplemental complaint" does not address  
3 matters occurring after the original complaint was filed, the court will deny plaintiff's May 5,  
4 2008 motion to file a supplemental complaint. *See* Fed. R. Civ. P. 15(d).

5 The court will, however, consider plaintiff's proposed amended complaint together with  
6 his "supplemental complaint."<sup>1</sup> The court finds that, for the limited purposes of § 1915A  
7 screening, these two documents, read together, state cognizable claims for relief against all  
8 defendants pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b).

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. The Clerk is directed to file the proposed amended complaint attached to plaintiff's  
11 April 21, 2008 motion, together with plaintiff's May 5, 2008 "supplemental complaint," as a  
12 second amended complaint;

13 2. Plaintiff's April 21, 2008, motion to amend his complaint is denied as moot;

14 3. Plaintiff's May 5, 2008, motion to supplement his complaint is denied;

15 4. Service is appropriate for defendants Roche, Dial, French, Cox, Bates, Snyder and  
16 James;

17 5. The Clerk of the Court shall send plaintiff 7 USM-285 forms, one summons, an  
18 instruction sheet and one copy of the second amended complaint;

19 6. Within 30 days from service of this order, plaintiff shall complete the attached Notice  
20 of Submission of Documents and submit it to the court with the completed summons and USM-  
21 285 forms and 8 copies of the endorsed second amended complaint;

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24 <sup>1</sup> Although Local Rule 15-220 requires that "every pleading to which an amendment or  
25 supplement is permitted as a matter of right . . . be retyped and filed so that it is complete in itself  
26 without reference to the prior or superceded pleading," in this instance, limited court resources  
counsel in favor of reading the documents together as a single complaint. *See* L.R. 15-220.  
Plaintiff is admonished that in the future he must comply with the Local Rules.

1           7. Upon receipt of the necessary materials, the court will direct the United States  
2 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4  
3 without payment of costs; and

4           8. Failure to comply with this order will result in a recommendation that this action be  
5 dismissed.

6 Dated: January 29, 2009.

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8 EDMUND F. BRENNAN  
9 UNITED STATES MAGISTRATE JUDGE  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARQUIS VERNARD WALKER,

Plaintiff,

No. CIV S-07-1323 WBS EFB

vs.

NOTICE OF SUBMISSION OF DOCUMENTS

T. FELKER, et al.,

Defendants.

\_\_\_\_\_ /

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

- 1 completed summons form
- 7 completed forms USM-285
- 8 copies of the Second Amended Complaint

Dated:

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Plaintiff