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

STEVEN FRYMAN,

Plaintiff,

No. CIV S-07-2636 LEW DAD P

vs.

A. TRAQUINA, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has filed an application to proceed in forma pauperis under 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 has submitted an in forma pauperis application that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, plaintiff will be granted leave to proceed in forma pauperis.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 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). Plaintiff will be obligated to make monthly payments of twenty percent of

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

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

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. Plaintiff's December 7, 2007 application to proceed in forma pauperis is
10 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 the following defendants: A.
15 Traquina and A. Noriega.

16 4. The Clerk of the Court shall send plaintiff two USM-285 forms, one summons,
17 an instruction sheet and a copy of the complaint filed December 7, 2007.

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

- 21 a. The completed, signed Notice of Submission of Documents;
- 22 b. One completed summons;
- 23 c. One completed USM-285 form for each defendant listed in number 3
- 24 above; and
- 25 d. Three copies of the complaint filed December 7, 2007.

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

DATED: December 12, 2007.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:9
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IN THE UNITED STATES DISTRICT COURT
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STEVEN FRYMAN,

Plaintiff,

No. CIV S-07-2636 LEW DAD P

vs.

A. TRAQUINA, et al.,

Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____ /

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

- _____ one completed summons form;
- _____ two completed USM-285 forms; and
- _____ three true and exact copies of the complaint filed December 7, 2007.

DATED: _____.

Plaintiff