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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOVIA LAFAELE,

Plaintiff,

CASE NO. CIV 08-0958-JCC

v.

J. ARNOLD, J. L. HERRERA,

Defendants.

ORDER GRANTING LEAVE TO
PROCEED *IN FORMA PAUPERIS*

Plaintiff is a state prisoner proceeding *pro se*. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed *in forma pauperis* under 28 U.S.C. § 1915.

Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a). The Court may authorize the commencement of an action “without prepayment of fees or security therefor” by an individual who submits an affidavit with evidence showing an inability to pay such fees or give security therefor. 28 U.S.C. § 1915(a). Plaintiff has submitted a declaration that makes the required showing. Accordingly, the request to proceed *in forma pauperis* is GRANTED.

Although prepayment is not required, Plaintiff must still pay the statutory fee of \$350 for this action. 28 U.S.C. § 1914(a), 1915(b)(1). Because Plaintiff has no funds in his account, the Court will not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). By separate order, the Court will direct the appropriate agency to collect the filing fee in installments from Plaintiff’s

1 trust account and forward it to the Clerk of the Court. Plaintiff will be obligated to make monthly
2 payments in the amount of twenty percent (20%) of the preceding month's income credited to his
3 trust account. 28 U.S.C. § 1915(b)(2). These payments will be forwarded by the appropriate
4 agency to the Clerk of the Court each time the amount in Plaintiff's account exceeds \$10.00, until
5 the statutory filing fee of \$350.00 is paid in full. 28 U.S.C. § 1915(b)(2).

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. Plaintiff's application to proceed *in forma pauperis* is GRANTED.

8 2. All fees shall be collected and paid in accordance with this Court's Order to the Director
9 of the California Department of Corrections and Rehabilitation filed concurrently herewith.

10 3. Service is appropriate for the following Defendants: J. Arnold, J. L. Herrera.

11 4. The Clerk of the Court shall send Plaintiff two USM-285 forms, one summons, an
12 instruction sheet, and a copy of the complaint filed May 5, 2008.

13 5. Within thirty days from the date of this Order, Plaintiff shall complete the attached
14 Notice of Submission of Documents and submit the following documents to the Court:

15 a. The completed Notice of Submission of Documents;

16 b. One completed summons;

17 c. One completed USM-285 form for each defendant listed in number 3 above; and

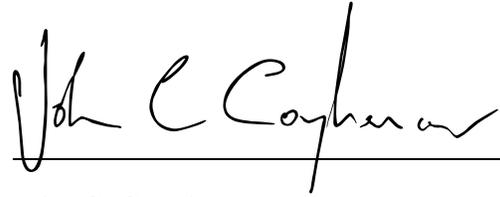
18 d. Three copies of the endorsed complaint filed May 5, 2008.

19 6. Plaintiff need not attempt service on Defendants and need not request waiver of service.

20 Upon receipt of the above-described documents, the Court will direct the United States Marshal to
21 serve the Defendants pursuant to Federal Rule of Civil Procedure 4(c)(3) without payment of
22 costs.

23 //

1 Dated this 21st day of April, 2009.

2
3 A handwritten signature in black ink, reading "John C. Coughenour". The signature is written in a cursive style and is positioned above a solid horizontal line.

4
5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOVIA LAFAELE,

Plaintiff,

CASE NO. CIV 08-0958-JCC

Vs.

NOTICE OF SUBMISSION OF
DOCUMENTS

J. ARNOLD, J. L. HERRERA

Defendants.

Plaintiff hereby submits the following documents in compliance with the Court's Order

filed _____:

_____ Completed summons form

_____ Completed USM-285 forms

_____ Copies of the Complaint

DATED:

Plaintiff