

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

ROBERT DUANE FRANKLIN

Plaintiff,

No. CIV 08-1223BHS

vs.

G. DUDLEY, M. MILLER, and  
DR. S.M. ROCHE  
Defendants.

ORDER

\_\_\_\_\_/

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 pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, plaintiff will be assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly

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

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

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

9 1. Plaintiff's request for leave to proceed in forma pauperis is **GRANTED**.

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

11 Plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.  
12 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the  
13 Director of the California Department of Corrections and Rehabilitation filed concurrently  
14 herewith.

15 3. Service is appropriate for the following defendants: G. Dudley, M. Miller and  
16 S.M. Roche.

17 4. The Clerk of the Court shall send plaintiff 3 USM-285 forms, one summons,  
18 an instruction sheet and a copy of the complaint filed September 17, 2007.

19 5. No later than March 2, 2009, plaintiff shall complete the attached Notice of  
20 Submission of Documents and submit the following documents to the court:

21 a. The completed Notice of Submission of Documents;

22 b. One completed summons;

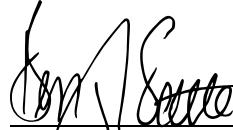
23 c. One completed USM-285 form for each defendant listed in number 3  
24 above; and

25 d. 4 copies of the endorsed complaint filed September 17, 2007.

26 6. Plaintiff need not attempt service on defendants and need not request waiver of

1 service. Upon receipt of the above-described documents, 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.

4 DATED: 5<sup>th</sup> day of February, 2009.

5 

6 BENJAMIN H. SETTLE  
7 United States District Judge  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

ROBERT DUANE FRANKLIN

Plaintiff,

No. CIV 08-1223BHS

vs.

G. DUDLEY, M. MILLER, and  
DR. S.M. ROCHE  
Defendants.

NOTICE OF SUBMISSION  
OF DOCUMENTS

\_\_\_\_\_ /

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/Amended Complaint]

DATED:

\_\_\_\_\_  
Plaintiff