

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 MICHAEL J. HICKS,

11 Plaintiff,

No. CIV S-08-2844 KJM P

12 vs.

13 JAMES WALKER, Warden, et al.,

14 Defendants.

ORDER

15 _____/
16 Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42
17 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C.
18 § 1915. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C.
19 § 636(b)(1).

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

22 Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28
23 U.S.C. § 1914(a), 1915(b)(1). Plaintiff has been without funds for six months and is currently
24 without funds. Accordingly, the court will not assess an initial partial filing fee. 28 U.S.C.
25 § 1915(b)(1). Plaintiff is obligated to make monthly payments of twenty percent of the
26 preceding month's income credited to plaintiff's prison trust account. These payments shall be

1 collected and forwarded by the appropriate agency to the Clerk of the Court each time the
2 amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C.
3 § 1915(b)(2).

4 In addition, plaintiff asks that his original complaint be dismissed to allow him to
5 submit an amended complaint, which he has done. The amended complaint is before the court.

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

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

10 1. Plaintiff's request for leave to proceed in forma pauperis is 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. Plaintiff's motion to dismiss his original complaint (docket no. 4) is granted,
15 and the filing of the amended complaint is approved.

16 4. Service of the amended complaint is appropriate for the following defendants:
17 Grubb, Jackson, Jaffee and Young.

18 5. The Clerk of the Court shall send plaintiff four USM-285 forms, one
19 summons, an instruction sheet and a copy of the amended complaint filed December 24, 2008.

20 6. Within thirty days from the date of this order, plaintiff shall complete the
21 attached Notice of Submission of Documents and submit the following documents to the court:

22 a. The completed Notice of Submission of Documents;

23 b. One completed summons;

24 c. One completed USM-285 form for each defendant listed in number 4
25 above; and

26 /////

1 d. Five copies of the endorsed amended complaint filed December 24,
2 2008.

3 7. Plaintiff need not attempt service on defendants and need not request waiver of
4 service. Upon receipt of the above-described documents, the court will direct the United States
5 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
6 without payment of costs.

7 DATED: April 16, 2009.

8 
9 U.S. MAGISTRATE JUDGE

10 2

hick2844.1

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

MICHAEL J. HICKS,

Plaintiff,

No. CIV S-08-2844 KJM P

vs.

JAMES WALKER, WARDEN, et al.,

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