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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MALIK JONES,
Plaintiff,
v.
J.L. BISHOP, et al.,
Defendants.

NO. CV-09-0150-JLQ

**ORDER RE: PLAINTIFF’S
MOTIONS; SUPPLEMENTAL
ORDER DIRECTING SERVICE ON
DEFENDANT MCGUIRE**

IT IS HEREBY ORDERED:

1. Plaintiff’s “Imminent Danger Motion” (Ct. Rec. 26) is **DENIED**. Plaintiff seeks the court’s “help” claiming that prison officials have retaliated against him and wrongfully taken his mobility assistive devices that doctors prescribed him. He also claims that in June of this year Defendant Probst threw a lunch bag and milk at him. Plaintiff is required to utilize the prison internal grievance system, not this court, to seek to correct his ongoing issues. The court will not consider matters extraneous to the pleadings and Plaintiff is directed to stop filing motions or declarations (such as Ct. Rec. 33 filed August 2, 2010) pertaining to ongoing grievances he has.

2. Plaintiff’s Motion for Court to Order Service of Process on Defendant J. McGuire (Ct. Rec. 31) is **GRANTED**. Plaintiff apparently does not wish to voluntarily dismiss the

1 claims against Defendant J. McGuire, as previously suggested. This Order shall supplement
2 the court's April 30, 2010 and May 19, 2010 Orders Directing Service.

3 3. Plaintiff's Amended Complaint states cognizable claims for relief against Defendant
4 J. McGuire. See Ct. Rec. 10, 18. The court ordered Plaintiff to prepare and return the
5 necessary service documents by April 30, 2010. Ct. Rec. 18. Plaintiff has done so. Ct. Rec.
6 20.

7 4. The **Clerk of Court** shall additionally forward the following documents to the
8 United States Marshal in connection with service on Defendant J. McGuire:

- 9 a. One completed and issued summons;
- 10 b. One completed USM-285 forms;
- 11 c. One copy of the Amended Complaint;
- 12 d. One copy of this Order, as well as the Orders at Ct. Rec. 10 and 18;
- 13 e. Two copies of a Waiver of Service;
- 14 f. One notice of lawsuit consistent with Federal Rule of Civil Procedure
15 4(d)(1); and
- 16 g. One request for waiver of service consistent with Federal Rule of Civil
17 Procedure 4(d)(1).

18 5. The **Clerk of Court** shall also immediately forward the following **additional**
19 documents to the U.S. Marshals Service:

- 20 a. an extra copy of the Amended Complaint; and
- 21 b. an extra copy of this Order, Ct. Rec. 10 and Ct. Rec. 18.

22 6. The **U.S. Marshals Service** shall serve **Defendant J. McGuire** in accordance
23 with Federal Rule of Civil Procedure 4.

- 24 a. **WITHIN TEN DAYS FROM THE DATE OF THIS ORDER**, in order
25 to effectuate service, the United States Marshal, in compliance with Rule
26 4(d), shall send the following documents by first class mail to the

1 Defendant J. McGuire: the summons, the Amended Complaint, this Order,
2 a request for waiver of service of summons, two copies of the Waiver of
3 Service, and a return envelope, postage prepaid, addressed to the sender.
4 The costs of mailing shall be advanced by the United States.

5 b. Next, if the Defendant J. McGuire does not return the Waiver of Service
6 within the applicable time period, the U.S. Marshal shall personally serve
7 that Defendant J. McGuire, in compliance with Rule 4(e)-(I) and 28
8 U.S.C. § 566(c). The United States Marshal shall make the necessary
9 attempts to effectuate such personal service until service is effected or, if
10 necessary, obtain direction from the court or the Legal Affairs Division
11 (Litigation Office Special Investigator) of the California Department of
12 Corrections and Rehabilitation (CDCR). The Marshal shall also command
13 all necessary assistance from the California Department of Corrections and
14 Rehabilitation (CDCR) to execute this Order.

15 7. The United States Marshal shall file upon receipt the returned waivers of service,
16 the requests for waiver of service that are returned as undelivered, and returns of service. In
17 addition, if necessary, the Marshal shall complete and file the USM-285 form. Costs of
18 service will then be taxed against the personally-served Defendant in accordance with Federal
19 Rule of Civil Procedure 4(d)(2).

20 **IT IS SO ORDERED.** The District Court Executive is directed to enter this Order and
21 provide a copy to Plaintiff and counsel.

22 **DATED** this 19th day of August 2010.

23 s/ Justin L. Quackenbush
24 JUSTIN L. QUACKENBUSH
25 SENIOR UNITED STATES DISTRICT JUDGE
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