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

RUSTY LUGO,

No. CIV S-09-0505-MCE-CMK-P

Plaintiff,

vs.

ORDER

WILLIAMS, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.<sup>1</sup> Pending before the court is plaintiff’s complaint (Doc. 1). The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a).

Plaintiff names Williams and Maluia as defendants. He claims that, in May 2007, defendants were deliberately indifferent to the conditions of his confinement and used excessive force. The complaint appears to state a cognizable claim for relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations are proven, plaintiff has a reasonable opportunity to

<sup>1</sup> Plaintiff raised the same claims in a prior action – CIV-S-07-1134-MCE-JFM – which was dismissed without prejudice for failure to resolve fees.

1 prevail on the merits of this action. The court, therefore, finds that service is appropriate and will  
2 direct service by the U.S. Marshal without pre-payment of costs. Plaintiff is informed, however,  
3 that this action cannot proceed further until plaintiff complies with this order. Plaintiff is warned  
4 that failure to comply with this order may result in dismissal of the action. See Local Rule 11-  
5 110.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. The court authorizes service on the following defendant(s):

8 WILLIAMS, and

9 MALUIA;

10 2. The Clerk of the Court shall send plaintiff one USM-285 form for each  
11 defendant identified above, one summons, an instruction sheet, and a copy of the [ORDINAL  
12 amended] complaint; and

13 3. Within 30 days of the date of service of this order, plaintiff shall complete  
14 the attached Notice of Submission of Documents and submit the following documents to the  
15 court:

16 a. The completed Notice of Submission of Documents;

17 b. One completed summons;

18 c. Two completed USM-285 form(s); and

19 d. Three copies of the endorsed complaint.

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22 DATED: April 13, 2009

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24 **CRAIG M. KELLISON**  
25 UNITED STATES MAGISTRATE JUDGE  
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Plaintiff,

vs.

WILLIAMS, et al.,

Defendants.

\_\_\_\_\_ /

NOTICE OF SUBMISSION OF DOCUMENTS

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

- 1   completed summons form;
- \_\_\_\_\_ completed USM-285 form(s); and
- \_\_\_\_\_ copies of the complaint.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff