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

JOHN FRANCIS,

Plaintiff,

No. CIV S-09-0640 GGH P

vs.

MATTHEW CATE, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. §1983. Plaintiff has consented to the jurisdiction of the undersigned. Docket # 4. By Order, filed on 4/24/09, certain of plaintiff’s claims in his original complaint were found cognizable, but his claims against defendants Mendoza, Cate, Grannis and Shea were dismissed with leave to amend. In response, plaintiff informed the court that he did not intend to amend and did not object to the dismissal of the defendants named above but simply wished to proceed on the claims found colorable. Therefore, the court will dismiss the above defendants for the reasons set forth in the Order, filed on 4/24/09, and because plaintiff expressly acquiesces to their dismissal, electing not to amend.

The complaint states a colorable claim for relief against defendants Dr. Newman, Dr. A. Pomazal (or Pomazel), David Snell, Christine L. Baca, Physician’s Assistant (Phys. Asst.) Michelle Street, Phys. Asst. Jeremy Riker, pursuant to 42 U.S.C. § 1983 and 28 U.S.C.

1 § 1915A(b).

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

3 1. Defendants Mendoza, Cate, Grannis and Shea are dismissed from this action.

4 2. Service is appropriate for the following defendants: Dr. Newman, Dr. A.  
5 Pomazal (or Pomazel), David Snell, Christine L. Baca, Physician's Assistants Michelle Street  
6 and Jeremy Riker.

7 3. The Clerk of the Court shall send plaintiff six (6) USM-285 forms, one  
8 summons, an instruction sheet and a copy of the complaint filed March 9, 2009.

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

11 a. The completed Notice of Submission of Documents;

12 b. One completed summons;

13 c. One completed USM-285 form for each defendant listed in number 2  
14 above; and

15 d. Seven (7) copies of the endorsed complaint filed March 9, 2009.

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

20 DATED: July 6, 2009

21 /s/ Gregory G. Hollows

22 UNITED STATES MAGISTRATE JUDGE

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vs.

MATTHEW CATE, et al.,

Defendants.

NOTICE OF SUBMISSION  
OF DOCUMENTS

\_\_\_\_\_ /

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

1 completed summons form

6 completed USM-285 forms

7 copies of the March 9, 2009  
Complaint

DATED:

\_\_\_\_\_  
Plaintiff