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

LARRY W. KIRK,

Plaintiff,

No. CIV S-09-686 KJM

vs.

MR. BOYLES,

Defendant.

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). An initial partial filing fee of \$1.00 will be assessed by this order. 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 payments of twenty percent of the preceding

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

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

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

8 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

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

10 Plaintiff is assessed an initial partial filing fee of \$1.00. All fees shall be collected and paid in  
11 accordance with this court's order to the Director of the California Department of Corrections  
12 and Rehabilitation filed concurrently herewith.

13 3. Service is appropriate for defendant Boyles.

14 4. The Clerk of the Court shall send plaintiff one USM-285 form, one summons,  
15 an instruction sheet and a copy of the complaint filed March 12, 2009.

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

18 a. The completed Notice of Submission of Documents;

19 b. One completed summons;

20 c. One completed USM-285 form for the defendant listed in number 3  
21 above; and

22 d. Two copies of the endorsed complaint filed March 12, 2009.

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

DATED: August 26, 2009.

  
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U.S. MAGISTRATE JUDGE

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

LARRY W. KIRK,

Plaintiff,

No. CIV S-09-686 KJM P

vs.

MR. BOYLES,

Defendant.

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