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

MICHAEL M. COTTRELL,

Plaintiff,

No. CIV S-09-824 JAM KJM P

vs.

M. WRIGHT, et al.,

Defendants.

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). Plaintiff has been without funds for six months and is currently without funds. Accordingly, the court will not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated to make monthly payments of twenty percent of the 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 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 It appears that the Clerk of the Court filed not only the original complaint but two
8 copies with it.

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

10 1. The Clerk of the Court is directed to remove CM/ECF pages nine through
11 twenty four from the complaint filed in this action, as they are duplicative of the complaint,
12 leaving the original complaint only (CM/ECF pages one through eight).

13 2. Plaintiff's requests for leave to proceed in forma pauperis (docket no. 7 & 8)
14 are granted.

15 3. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.
16 The fee shall be collected and paid in accordance with this court's order to the Director of the
17 California Department of Corrections and Rehabilitation filed concurrently herewith.

18 4. Service is appropriate for the following defendants: Wright, Haynes and
19 Sisson.

20 5. The Clerk of the Court shall send plaintiff three USM-285 forms, one
21 summons, an instruction sheet and a copy of the complaint filed March 25, 2009.

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

- 24 a. The completed Notice of Submission of Documents;
- 25 b. One completed summons;

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- c. One completed USM-285 form for each defendant listed in number 4 above; and
- d. Four copies of the endorsed complaint filed March 25, 2009.

7. Plaintiff need not attempt service on defendants 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 defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

DATED: August 24, 2009.



U.S. MAGISTRATE JUDGE

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

MICHAEL M. COTTRELL,

Plaintiff,

No. CIV S-09-0824 JAM KJM P

vs.

M. WRIGHT, 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