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

DANNY JAMES COHEA,

Plaintiff,

No. CIV S-09-998 JAM KJM P

vs.

S. ADCOCK,

Defendant.

ORDER

_____/

Plaintiff is a state prison inmate proceeding pro se with a civil rights action under 42 U.S.C. § 1983. Plaintiff alleges that the defendants took a number of actions against him, all in retaliation for his grievances and complaints about conditions in CSP-Folsom’s B-Facility. Specifically, he alleges that: (1) on January 24, 2001, defendant Adcock filed a false rules violation report against him; this report was endorsed by defendants Sims, Schievelbein and Hill around the same date; (2) on January 29, 2001, defendant Adcock filed another false incident report, which was endorsed by defendants Rosario, Schievelbein, Hill and Sims; on January 24, 2001, defendants Sims, Schievelbein and Hill refused to pack plaintiff’s legal property and broke plaintiff’s color television; (3) on January 31, 2001, defendants Schievelbein, Goghnoor and Sanders relied on defendant Adcock’s falsified reports in removing plaintiff from B-Facility, from his work group and Level III status; (4) on or about February 22 and March 1, 2001,

1 defendants Stockton and Padovan violated plaintiff's rights to present exculpatory evidence and
2 to a fair hearing on the falsified rules violation report, and (5) between May 13, 2001 and
3 January 22, 2002, defendants Scarsella, Bunnell and Rianda denied plaintiff's grievances
4 stemming from Adcock's false reports. Plaintiff further alleges that his administrative
5 grievances were exhausted on January 22, 2002.

6 This court found that all of the above claims were barred by the statute of
7 limitations, which, it calculated, expired in January 2006. Docket No. 11. Plaintiff has now
8 filed objections, noting that his allegations against several of the defendants were included in
9 amended complaints in Cohea v. Pliler, Civ. No. S-00-2799 FCD EFB, which were dismissed
10 because the claims had not been exhausted before the initial action (as opposed to the amended
11 complaints raising them) was filed. Civ. No. S-00-2799, Docket No. 11 (allegations against
12 Scogin, Flory, Kelly and Adcock); Docket No. 174 (Flory, Hill, Kelly, Saunders, Scogin, Sims
13 and White).

14 Without necessarily finding that plaintiff has satisfied the statute of limitations,
15 the court will vacate its earlier findings and recommendations and order the complaint served as
16 to the retaliation claims identified in the first paragraph above.

17 Accordingly, IT IS HEREBY ORDERED that:

18 1. The findings and recommendations filed March 13, 2009 (docket no. 11) are
19 hereby vacated.

20 2. Service of the retaliation claims is appropriate for the following defendants:
21 Adcock, Sims, Schievelbein, Hill, Rosario, Sims, Scogin, Flory, Kelly, Goghnoor, Sanders,
22 Stockton, Padovan, Scarsella, Bunnell and Rianda.

23 3. The Clerk of the Court shall send plaintiff sixteen USM-285 forms, one
24 summons, an instruction sheet and a copy of the complaint filed April 13, 2009.

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

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- a. The completed Notice of Submission of Documents;
- b. One completed summons;
- c. One completed USM-285 form for each defendant listed in number 2 above; and
- d. Seventeen copies of the endorsed complaint filed April 13, 2009.

5. 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: November 24, 2009.



U.S. MAGISTRATE JUDGE

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

DANNY JAMES COHEA,

Plaintiff,

No. CIV S-09-998 JAM KJM P

vs.

S. ADCOCK,

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