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

GREGORY W. BRANNON,

Plaintiff,

No. CIV S-09-1130 EFB P

vs.

R. KADEVARI, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).

I. Request to Proceed In Forma Pauperis

Plaintiff has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Dckt. No. 10. Plaintiff’s application makes the showing required by 28 U.S.C. § 1915(a)(1) and (2). Accordingly, by separate order, the court directs the agency having custody of plaintiff to collect and forward the appropriate monthly payments for the filing fee as set forth in 28 U.S.C. § 1915(b)(1) and (2).

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1 **II. Screening Order**

2 Pursuant to 28 U.S.C. § 1915A, the court shall review “a complaint in a civil action in
3 which a prisoner seeks redress from a governmental entity or officer or employee of a
4 governmental entity.” 28 U.S.C. § 1915A(a). “On review, the court shall identify cognizable
5 claims or dismiss the complaint, or any portion of the complaint, if the complaint (1) is frivolous,
6 malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief
7 from a defendant who is immune from such relief.” *Id.* § 1915A(b).

8 Pursuant to § 1915A, the court has reviewed plaintiff’s amended complaint, which
9 supercedes the original complaint. The court finds that, for the limited purposes of § 1915A
10 screening, the amended complaint states cognizable Eighth Amendment claims for relief against
11 all defendants (Shackford, Mihelich, Rainey, Kadevari¹ and Purcell).

12 **III. Plaintiff’s Motions**

13 On May 20, 2009, plaintiff filed a request that the court order Solano County officials to
14 allow plaintiff to continue working on his legal affairs with another inmate who has been
15 approved to assist plaintiff. Dckt. No. 5. Plaintiff’s motion is denied, as there were no court
16 imposed deadlines at the time of the filing and it is not evident why plaintiff needed the
17 assistance of another inmate.

18 Additionally, plaintiff requested that the court stay this action while he undergoes a
19 “nerve graft surgery.” Dckt. No. 6. Subsequently, plaintiff requested that the court lift any stay
20 that had been imposed. Dckt. No. 9. It appears that plaintiff no longer seeks a stay. Thus, his
21 motion will be denied as unnecessary.

22 Accordingly, it hereby is ordered that:

- 23 1. Plaintiff’s request to proceed in forma pauperis is granted.

24 ///

25 _____
26 ¹ On October 16, 2009, plaintiff filed a “motion to correct spelling,” indicating that this is
the correct spelling of “Kadevari.” Dckt. No. 13.

1 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected in
2 accordance with the notice to the Solano County Sheriff's Office filed concurrently herewith.

3 3. Service is appropriate for defendants Shackford, Mihelich, Rainey, Kadevari and
4 Purcell.

5 4. The Clerk of the Court shall send plaintiff five USM-285 forms, one summons, an
6 instruction sheet and one copy of the October 7, 2009 amended complaint.

7 5. Within 30 days from service of this order, plaintiff shall complete the attached Notice
8 of Submission of Documents and submit it to the court with the completed summons and USM-
9 285 forms and six copies of the endorsed October 7, 2009 pleading.

10 6. Upon receipt of the necessary materials, the court will direct the United States
11 Marshal to serve defendants Shackford, Mihelich, Rainey, Kadevari and Purcell pursuant to
12 Federal Rule of Civil Procedure 4 without payment of costs. Failure to comply with this order
13 will result in dismissal.

14 7. Plaintiff's May 20, 2009 request for a court order, Dckt. No. 5, is denied.

15 8. Plaintiff's June 2, 2009 and October 6, 2009 motions requesting that a stay be granted,
16 and then lifted, Dckt. Nos. 6, 9, are denied.

17 9. Plaintiff's October 16, 2009 motion to correct the spelling of defendant Kadevari's
18 name, Dckt. No. 13, is granted.

19 Dated: March 30, 2010.

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21 EDMUND F. BRENNAN
22 UNITED STATES MAGISTRATE JUDGE
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Plaintiff,

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vs.

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Defendants.

NOTICE OF SUBMISSION OF DOCUMENTS

_____ /

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

filed _____:

- 1 completed summons form
- 5 completed forms USM-285
- 6 copies of the October 7, 2009 amended complaint

Dated:

Plaintiff