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

CLARENCE SARGENT,

Plaintiff,

No. CIV S-09-1472 GGH P

vs.

P. STATTI, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983 together with a request for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Plaintiff has not, however, filed his application for leave to proceed in forma pauperis on the form used by this district. Use of the form assists plaintiff to establish and the court to evaluate plaintiff's in forma pauperis status in light of 28 U.S.C. § 1915 (b)(1) and (2). Plaintiff will be provided the opportunity to submit the application on the appropriate form. Plaintiff is cautioned that he must also provide a certified copy of his prison trust account statement for the six month period immediately preceding the filing of his complaint.

Despite plaintiff's failure to as yet provide the appropriate documentation in support of his application to proceed pro se, the court will proceed to the screening of plaintiff's amended complaint in this instance. Plaintiff's original complaint alleged discrimination by

1 defendant Statti at High Desert State Prison by having designated plaintiff's ethnicity as white
2 when he is a Native American and alleged retaliation in the form of failing to process plaintiff's
3 grievances with regard to the matter. See Complaint, filed on May 28, 2009. Plaintiff, however,
4 has superseded this complaint with an amended complaint, filed on June 10, 2009 (docket # 9).¹

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

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

9 1. The Court has not yet determined whether plaintiff may proceed in forma
10 pauperis;

11 2. The Clerk of the Court is directed to send plaintiff a new Application to
12 Proceed In Forma Pauperis By a Prisoner; and

13 3. Plaintiff shall submit, within thirty days from the date of this order, a
14 completed application to proceed in forma pauperis. Failure to do so will result in a
15 recommendation that this action be dismissed without prejudice.

16 4. Plaintiff's motion for leave to amend his complaint, filed on June 10, 2009 (#
17 9), is granted as a matter of right. Although plaintiff is being conditionally allowed to proceed
18 upon his first amended complaint, his addenda, filed on July 29, 2009 (# 15) and on August 3,
19 2009 (# 19), are stricken (see note 1); should plaintiff seek to incorporate further
20 allegations/claims for relief, plaintiff may file, within thirty days, a motion to amend the amended
21 complaint, along with a proposed second amended complaint.

22
23 ¹ Plaintiff thereafter filed an addendum to the amended complaint, on July 29, 2009 (# 15)
24 and a motion to further amend the amended complaint with an additional addendum, on August
25 3, 2009 (# 19). These addenda or supplements are not in compliance with L.R. 15-220, which
26 requires that a pleading be complete within itself. Therefore, these addenda will be stricken.
Should plaintiff seek to incorporate further allegations or claims for relief, he must do so by way
of filing a motion for leave to amend and a proposed second amended complaint, incorporating
all claims upon which he seeks to proceed, within 30 days of the filing date of this order.

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5. As to the first amended complaint, service is appropriate for the following defendants: CDCR Director of Div. of Adult Institutions S. Hubbard; High Desert State Prison Warden McDonald; C/O² Barker; C/O Fish; C/O Statti; C/O F. Money; C/O J. Hubbard; C/O Brewer; C/O J. Kelly; C/O Smith; C/O Cummings; C/O Mowry; C/O Haas.

6. The Clerk of the Court shall send plaintiff thirteen (13) USM-285 forms, one summons, an instruction sheet and a copy of the amended complaint filed on June 10, 2009 (# 9).

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

- a. The completed Notice of Submission of Documents;
- b. One completed summons;
- c. One completed USM-285 form for each defendant listed in number 5 above; and
- d. Fourteen (14) copies of the endorsed amended complaint filed June 10, 2009 (#9).

8. 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 7, 2009

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

GGH:009
sarg1472.1am+

² Correctional Officer.

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

CLARENCE SARGENT,

Plaintiff,

No. CIV S-09-1472 GGH P

vs.

P. STATTI, 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

13 completed USM-285 forms

14 copies of the June 10, 2009 (# 9)
Amended Complaint

DATED:

Plaintiff