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

TONY MABRY,

Plaintiff,

No. CIV S-09-1581 WBS GGH P

vs.

ROBERT SANTOS,

Defendant.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. By order filed on August 13, 2009, plaintiff's complaint was dismissed with leave to file an amended complaint. Plaintiff has now filed an amended complaint. Plaintiff also asks that his filings, signed on August 16, 2009, be disregarded, which includes his declining the jurisdiction of the undersigned, because plaintiff had not yet received the court's order, filed on August 13, 2009, when he sent those documents. The court will grant the motion disregarding both filings of that date, dated in this court as filed on August 19, 2009 (docket # 10 and # 11), and will provide plaintiff with another consent form; however, should plaintiff fail to file the new consent/reassignment form within twenty-eight (28) days, the form declining consent will be re-instated.

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

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

2 1. Service is appropriate for the following defendants: Robert Santos.

3 2. The Clerk of the Court shall send plaintiff one (1) USM-285 form, one
4 summons, an instruction sheet and a copy of the amended complaint filed September 2, 2009
5 (docket # 14).

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

- 8 a. The completed Notice of Submission of Documents;
- 9 b. One completed summons;
- 10 c. One completed USM-285 form for each defendant listed in number 1
- 11 above; and
- 12 d. Two (2) copies of the endorsed amended complaint filed September 2,
- 13 2009 (docket # 14).

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

18 5. The Clerk of the Court shall provide plaintiff with another copy of *the*
19 *consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court;*

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

TONY MABRY,

Plaintiff,

No. CIV S-09-1581 WBS GGH P

vs.

ROBERT SANTOS,

Defendant.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____ /

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

1 completed summons form

1 completed USM-285 form

2 copies of the September 2, 2009
Amended Complaint

DATED:

Plaintiff