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

RICHARD L. ISGRIGG,

Plaintiff,

No. CIV S-09-1905 GEB GGH P

vs.

R. HEYNIE, et al.,

Defendants.

ORDER and

FINDINGS & RECOMMENDATIONS

_____ /

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. This matter is referred to this undersigned by Local Rule 302 (c), pursuant to 28 U.S.C. § 636(b)(1); see also E.D. Cal. L. R. (“Local Rule”), Appx. A, at (k)(1)-(2).

Pursuant to orders filed August 10, 2009, this court granted plaintiff’s application to proceed in forma pauperis, and found that plaintiff’s complaint, filed July 13, 2009, stated colorable claims against defendants Heyne, Gomez and Jeffries, but not against defendants Hatch, Walker, Rios, Dragosh and Hubbard. Plaintiff was granted leave to file an amended complaint to address the deficiencies noted by the court. Plaintiff filed an amended complaint on September 10, 2009. By order filed October 20, 2009, the court again found that plaintiff failed to state claims against defendants Hatch, Walker, Rios, Dragosh and Hubbard, and granted plaintiff twenty-eight days to further amend his complaint. That period has now expired, and

1 plaintiff has not filed a further amended complaint.

2 The court will therefore direct plaintiff to complete the forms necessary for the
3 United States Marshal to serve process upon defendants Heyne, Gomez and Jeffries, and will
4 recommend the dismissal of the remaining defendants.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Service is appropriate for the following defendants: Heyne, Gomez and Jeffries.

7 2. The Clerk of the Court shall send plaintiff 3 USM-285 forms, one summons,
8 an instruction sheet and a file-endorsed copy of plaintiff's amended complaint filed September
9 10, 2009 (Docket No. 10).

10 3. Within twenty-eight days from the date of this order, plaintiff shall complete the
11 attached Notice of Submission of Documents and submit the following documents to the court:

12 a. The completed Notice of Submission of Documents;

13 b. One completed summons;

14 c. One completed USM-285 form for each defendant; and

15 d. Four copies of the endorsed complaint filed Sept. 10, 2009.

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

20 Further, for the reasons given in the undersigned's order filed October 20, 2009,
21 IT IS HEREBY RECOMMENDED that this action be dismissed against defendants Hatch,
22 Walker, Rios, Dragosh and Hubbard. Title 28 U.S.C. § 1915A.

23 These findings and recommendations are submitted to the United States District
24 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
25 twenty-one days after being served with these findings and recommendations, plaintiff may file
26 written objections with the court. The document should be captioned "Objections to Magistrate

1 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
2 within the specified time may waive the right to appeal the District Court's order.

3 DATED: January 19, 2010

4 /s/ Gregory G. Hollows
5 United States Magistrate Judge
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