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

MALIK JONES,

Plaintiff,

No. CIV S-09-3174 FCD KJM P

vs.

A. DAVID, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). An initial partial filing fee of \$3.64 will be assessed by this order. 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff’s trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the

1 preceding month's income credited to plaintiff's prison trust account. These payments will be
2 forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's
3 account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

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

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

9 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

10 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.
11 Plaintiff is assessed an initial partial filing fee of \$3.64. All fees shall be collected and paid in
12 accordance with this court's order to the Director of the California Department of Corrections
13 and Rehabilitation filed concurrently herewith.

14 3. Service is appropriate for the following defendants: David and Holmes.

15 4. The Clerk of the Court shall send plaintiff two USM-285 forms, one summons,
16 an instruction sheet and a copy of the complaint filed November 16, 2009.

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

19 a. The completed Notice of Submission of Documents;

20 b. One completed summons;

21 c. One completed USM-285 form for each defendant listed in number 3
22 above; and

23 d. Three copies of the endorsed complaint filed November 16, 2009.

24 6. Plaintiff need not attempt service on defendants and need not request waiver of
25 service. Upon receipt of the above-described documents, the court will direct the United States

26 //

1 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
2 without payment of costs.

3 DATED: April 27, 2010.

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5 _____
6 U.S. MAGISTRATE JUDGE

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

MALIK JONES,

Plaintiff,

No. CIV-S 09-3174 FCD KJM P

vs.

A. DAVID, et al.,

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

DATED:

Plaintiff