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

CHARLES CORNELIUS JAMES,

Plaintiff,

No. CIV S-10-1171 LKK DAD P

vs.

DEEPAK MEHTA, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding through counsel with an action filed pursuant to 42 U.S.C. § 1983.

Prior to appointing counsel in this case, the court found that plaintiff's second amended complaint appeared to state cognizable claims against defendants Mehta, Dhillon, Pai, Capitano, Uppal, Bick, Aguilera, Andreasen, and Williams and ordered plaintiff to complete and return the documents necessary to effect service on those defendants. Counsel for plaintiff recently filed a motion for clarification noting that two of the named defendants in this case have the last name Williams. Counsel seeks clarification from the court as to whether service is appropriate with respect to both defendant Dr. Williams and defendant Nurse Williams.

After reviewing plaintiff's second amended complaint and the court's screening order of that complaint, the court has determined that service is appropriate as to both of these

1 defendants and will order additional service for defendant Dr. Williams. See 42 U.S.C. § 1983 &
2 28 U.S.C. § 1915A(b). Plaintiff has already submitted the USM-285 form for defendant Nurse
3 Williams.

4 The court previously agreed to delay service of the defendants in this case until
5 the judge presiding in plaintiff's earlier-filed action ruled on plaintiff's motion to amend pending
6 in that case. If granted leave to amend in his earlier-filed action, plaintiff indicated that he would
7 seek to voluntarily dismiss this case. Counsel for plaintiff has filed a status report informing the
8 court that plaintiff's motion to amend in his earlier-filed action has been denied. Accordingly, as
9 soon as plaintiff submits documents necessary for service for defendant Dr. Williams, the court
10 will order the United States Marshal to effect service on all of the defendants in this case.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The Clerk of the Court shall send plaintiff one USM-285 form;
- 13 2. Within thirty days from the date of this order, plaintiff shall complete the
14 attached Notice of Submission of Documents and submit it with the completed USM-285 form
15 for defendant Dr. Williams;
- 16 3. Plaintiff shall not attempt to effect service of the complaint on the defendant or
17 request a waiver of service of summons from the defendant. Upon receipt of the above-described
18 documents, the court will direct the United States Marshal to serve the above-named defendant
19 pursuant to Federal Rule of Civil Procedure 4 without payment of costs; and
- 20 4. Plaintiff's motion for clarification (Doc. No. 30) is granted.

21 DATED: July 5, 2011.

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24 _____
25 DALE A. DROZD
26 UNITED STATES MAGISTRATE JUDGE

25 DAD:9
jame1171.clar

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

CHARLES CORNELIUS JAMES,

Plaintiff,

No. CIV S-10-1171 LKK DAD P

vs.

DEEPAK MEHTA et al.,

NOTICE OF SUBMISSION

Defendant.

OF DOCUMENTS

_____ /

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

_____ one completed USM-285 form for defendant Dr. Williams.

DATED: _____.

Plaintiff