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

MARCEL WILLIS,

Plaintiff,

No. CIV S-10-1631 MCE GGH P

vs.

FOLSOM STATE PRISON
MEDICAL STAFF, et al.

Defendants.

ORDER &
FINDINGS AND RECOMMENDATIONS

_____ /

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 October 8, 2010, certain defendants and claims were dismissed from plaintiff's first amended complaint with leave to file a second amended complaint. Plaintiff was informed that upon the filing of a second amended complaint or expiration of time therefor, the court would make further orders for service of process upon some or all defendants. Plaintiff has elected not to file a second amended complaint and the time for doing so has expired.

As was stated in the preceding order, a colorable claim for relief against defendants Sergeant Curry; Correctional Officer (C/O) Douchow; C/O Vasquez; Correctional Counselor (CC) I Johnston; Appeal Coordinator Casey; Dr. Lee; Registered Nurse (RN) Pete;

1 RN Diana O’Laughlin; Captain Hayward, pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §
2 1915A(b) was stated within the (first amended) complaint.

3 However, as to plaintiff’s claims against defendants Prunity, Haworth, Dunlap,
4 Quarte, Tennison, Bickford, and Barker, the court now recommends they be dismissed from this
5 action, as well as any claim of conspiracy against defendants Johnston and Hayward, for the
6 reasons discussed in the Order, filed on October 8, 2010.

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

8 1. Service is appropriate for the following defendants: Sergeant Curry; C/O
9 Douchow; C/O Vasquez; CC I Johnston; Appeal Coordinator Casey; Dr. Lee; RN Pete; RN
10 Diana O’Laughlin; Captain Hayward.

11 2. The Clerk of the Court shall send plaintiff nine (9) USM-285 forms, one
12 summons, an instruction sheet and a copy of the amended complaint filed September 2, 2010
13 (docket # 11).

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

- 17 a. The completed Notice of Submission of Documents;
- 18 b. One completed summons;
- 19 c. One completed USM-285 form for each defendant listed in number 1
20 above; and
- 21 d. Ten (10) copies of the endorsed amended complaint filed September 2,
22 2010 (docket # 11)..

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

1 IT IS RECOMMENDED that defendants Prunity, Haworth, Dunlap, Quarte,
2 Tennison, Bickford, Barker, and any claim of conspiracy against defendants Johnston and
3 Hayward, be dismissed.

4 These findings and recommendations are submitted to the United States District
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
6 days after being served with these findings and recommendations, plaintiff may file written
7 objections with the court. Such a document should be captioned "Objections to Magistrate
8 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
9 within the specified time may waive the right to appeal the District Court's order. Martinez v.
10 Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: December 15, 2010

12 /s/ Gregory G. Hollows

13 UNITED STATES MAGISTRATE JUDGE

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MARCEL WILLIS,

Plaintiff,

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vs.

FOLSOM STATE PRISON
MEDICAL STAFF, 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

9 completed USM-285 forms

10 copies of the September 2, 2010
Amended Complaint

DATED:

Plaintiff