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

DANNY MURPHY COSTON,

Plaintiff,

No. CIV S-10-2009 EFB P

vs.

ANDREW NANGALAMA, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He seeks leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a). This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff’s consent. See 28 U.S.C. § 636; see also E.D. Cal. Local Rules, Appx. A, at (k)(4).

By order filed December 16, 2010, the court found that plaintiff had stated sufficient allegations against defendants Hale, Nangalama, Bercholdt, Brimhall, Duc, and Bal based on their alleged acts and/or omissions as to plaintiff’s alleged need for pain medication. The court informed plaintiff he could proceed on these claims only or file an amended complaint to attempt to state cognizable claims against defendant Sahota, and against Hale based on the delivery of plaintiff’s morphine without labels or instructions. The court also informed plaintiff that the

1 court would consider his decision to proceed only as to his potentially cognizable claims against
2 Hale, Nangalama, Bercholdt, Brimhall, Duc, and Bal, as consent to the dismissal of plaintiff's
3 defective claims against defendants Sahota and Hale, without prejudice. On January 24, 2011,
4 plaintiff returned documents for service against defendants Nangalama, Bercholdt, Brimhall,
5 Duc, and Bal.

6 Accordingly, it is hereby ORDERED that defendant Sahota, as well as plaintiff's claim
7 against defendant Hale based on the delivery of plaintiff's morphine without labels or
8 instructions, are dismissed without prejudice.

9 Dated: February 11, 2011.

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11 EDMUND F. BRENNAN
12 UNITED STATES MAGISTRATE JUDGE
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