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

PETER GRAVES,

No. CIV S-10-2970 WBS EFB PS

Plaintiff,

vs.

ERIC HOLDER,

ORDER

Defendant.

\_\_\_\_\_/

This case, in which plaintiff is proceeding *in propria persona*, was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1) and Eastern District of California Local Rule 302(c)(21). Plaintiff requests authority to proceed *in forma pauperis*, and has submitted an affidavit which demonstrates that plaintiff is unable to prepay fees and costs or give security thereof. Dckt. No. 2. Although it is unclear whether plaintiff seeks leave to proceed *in forma pauperis* pursuant to 42 U.S.C. § 2000e-5(f)(1) or pursuant to 28 U.S.C. § 1915, because plaintiff has demonstrated that he is unable to prepay fees and costs, the application will be granted, plaintiff will not be required to pay the filing fee, and the U.S. Marshal will be directed

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1 to effect service of process in this action.<sup>1</sup> See 42 U.S.C. § 2000e-5(f)(1) (“Upon application by  
2 the complainant and in such circumstances as the court may deem just, the court may appoint an  
3 attorney for such complainant and may authorize the commencement of the action without the  
4 payment of fees, costs, or security.”); 28 U.S.C. § 1915(a)(1) (“[A]ny court of the United States  
5 may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil  
6 or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who  
7 submits an affidavit that includes a statement of all assets such [person] possesses that the person  
8 is unable to pay such fees or give security therefor.”); see also Fed. R. Civ. P. 4(c)(3).

9 Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

10 1. Plaintiff’s request to proceed *in forma pauperis*, Dckt. No. 2, is granted.

11 2. The Clerk of the Court is directed to issue forthwith all process pursuant to Federal  
12 Rule of Civil Procedure 4.

13 3. The Clerk of Court shall send plaintiff two USM-285 forms, one summons, a copy of  
14 the complaint, this court’s scheduling order, and the forms providing notice of the magistrate  
15 judge’s availability to exercise jurisdiction for all purposes and the court’s voluntary dispute  
16 resolution program.

17 4. Plaintiff is advised that the U.S. Marshal will require:

18 a. One completed summons;

19 b. One completed USM-285 form for each defendant;

20 c. A copy of the complaint for each defendant, with an extra copy for the U.S.

21 Marshal; and,

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23 <sup>1</sup> Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss a case filed pursuant  
24 to the *in forma pauperis* statute if, at any time, it determines that the allegation of poverty is  
25 untrue, or if the action is frivolous or malicious, fails to state a claim on which relief may be  
26 granted, or seeks monetary relief against an immune defendant. To the extent plaintiff seeks to  
proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, the court cannot make this  
determination on the present record. Therefore, the court reserves decision on these issues until  
the record is sufficiently developed.

1 d. A copy of this court's scheduling order and related documents for each  
2 defendant.

3 5. Plaintiff shall supply the United States Marshal, within 14 days from the date this  
4 order is filed, all information needed by the Marshal to effect service of process, and *shall,*  
5 *within 14 days thereafter, file a statement with the court that said documents have been*  
6 *submitted to the United States Marshal.*

7 6. The U.S. Marshal shall serve process, with copies of this court's scheduling order and  
8 related documents, within 90 days of receipt of the required information from plaintiff, without  
9 prepayment of costs. *The United States Marshal shall, within 14 days thereafter, file a statement*  
10 *with the court that said documents have been served.* If the U.S. Marshal is unable, for any  
11 reason, to effect service of process on any defendant, the Marshal shall promptly report that fact,  
12 and the reasons for it, to the undersigned.

13 7. The Clerk of Court shall serve a copy of this order on the United States Marshal, 501  
14 "T" Street, Sacramento, CA 95814 (tel. 916-930-2030).

15 DATED: November 23, 2010.

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17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
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