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

ROGER GIFFORD,

No. CIV S-11-2484-KJM-CMK

Plaintiff,

vs.

ORDER

SISKIYOU COUNTY SHERIFF, et al.,

Defendants.

_____ /

Plaintiff, proceeding pro se and in forma pauperis, brings this civil action.

Pending before the court is plaintiff’s amended complaint (Doc. 7).

Plaintiff’s original complaint was dismissed with leave to file an amended complaint. As with plaintiff’s original complaint, the court is required to screen his amended complaint. See 28 U.S.C. § 1915(e)(2). Under the screening provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h), this court must dismiss an action “[w]henever it appears . . . that the court lacks jurisdiction of the subject matter”

1 In his amended complaint, plaintiff claims the defendants have violated his Fourth
2 Amendment rights, through unlawful search and seizure without warrant, and using false
3 statements to obtain a search warrant. He also alleges violations of State law. The defendants
4 identified in his complaint include Siskiyou County sheriff deputies and California Highway
5 Patrol officers. Plaintiff's original complaint also named the Siskiyou County Sheriff's Office
6 and the California Highway Patrol. Those agencies are no longer specifically named in the
7 amended complaint. The court will authorize service of the named individual law enforcement
8 officers: Lemos, Grossman, Richardson, Swain, Shadwell, Leighliter, Yates, Baty, and McPeek.

9 The court concludes that it has subject matter jurisdiction and that the complaint is
10 appropriate for service by the United States Marshal without pre-payment of costs. If plaintiff
11 desires service of process by the United States Marshal without pre-payment of costs, plaintiff
12 must comply with the requirements outlined below. Plaintiff is warned that failure to comply
13 with this order, or otherwise effect service pursuant to Federal Rule of Civil Procedure 4, may
14 result in dismissal of the action for lack of prosecution and failure to comply with court rules and
15 orders. See Local Rule 110.

16 Accordingly, IT IS HEREBY ORDERED that:

17 1. The Clerk of the Court shall issue a summons in a civil case, the
18 undersigned's new case documents, and an order setting this matter for an initial scheduling
19 conference;

20 2. The Clerk of the Court shall send plaintiff the summons, nine USM-285
21 forms, and a copy of the complaint;

22 3. Within 15 days from the date of this order, plaintiff shall complete the
23 summons by indicating the addresses of the named defendants and shall submit to the United
24 States Marshal at the address indicated below the following documents:

25 a. The completed summons;

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

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- c. Ten copies of the complaint; and
- d. Nine copies of the court's initial scheduling conference order

issued herewith;

4. Within 20 days of the date of this order, plaintiff shall file a notice indicating that the documents described above have been submitted to the United States Marshal, or a notice that plaintiff intends to serve the summons and complaint without assistance from the United States Marshal;

5. If plaintiff seeks the assistance of the United States Marshal, the United States Marshal is directed to serve all process without pre-payment of costs not later than 60 days from the date of this order, such service of process to be completed by serving a copy of the summons, complaint, and initial scheduling conference order on the defendants at the addresses provided by plaintiff; and

6. The Clerk of the Court is directed to serve a copy of this order on the United States Marshal at 501 "I" Street, Sacramento, CA, 95814.

DATED: May 2, 2012



CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE