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

TREMAYNE D. CARROLL,

Plaintiff,

No. 2:11-cv-2611 KJN P

vs.

WARDEN TIM VIRGA, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner housed at California State Prison, Sacramento (CSP-SAC), filed a document styled “Order to Show Cause for a Preliminary Injunction and Temporary Restraining Order.” (Dkt. No. 1.) Plaintiff seeks a court order enjoining defendants from transferring plaintiff to “prisons where ‘The Green Wall’ ha[s] a stronghold (HDSP, SVSP, CSP-COR, RJD, KVSP, NKSP, PBSP).” (Dkt. No. 1 at 2.) Plaintiff claims defendants are not “honoring [the] confidential contract signed by petitioner, C/O Camp and Warden Tim Virga to house [plaintiff] at CSP-SAC or Mule Creek State Prison only for plaintiff’s safety, and out of [administrative segregation (“ad seg”).” (Id.) Plaintiff states he “has been the victim of several physical/sexual assaults by staff, threats/torture by CDCR (CSP-SAC, CSP-COR, CMF, PVSP) from Feb. 7, 2011 thr[ough] the present.” (Dkt. No. 1 at 1.) Plaintiff alleges “these attacks are based on [plaintiff] writing up the illegal activities of the rogue and corrupt ‘Green Wall’

1 officials at CSP-SAC who operate outside of the law, outside of CDCR policy and under the
2 Code of Silence with no regard of consequences.” (Id.)

3 Plaintiff is presently housed at CSP-SAC in ad seg.

4 No other pleadings have been filed by the plaintiff. In order to commence an
5 action, plaintiff must file a complaint as required by Rule 3 of the Federal Rules of Civil
6 Procedure, and plaintiff must either pay the required filing fee or file an application requesting
7 leave to proceed in forma pauperis.¹ See 28 U.S.C. §§ 1914(a), 1915(a). The court will not issue
8 any orders granting or denying relief until an action has been properly commenced. Therefore,
9 plaintiff’s motion will be denied without prejudice. Plaintiff will be provided the opportunity to
10 file his complaint, and to submit an application requesting leave to proceed in forma pauperis or
11 to submit the appropriate filing fee.

12 Plaintiff is cautioned that a prisoner may bring no § 1983 action until he has
13 exhausted such administrative remedies as are available to him. 42 U.S.C. § 1997e(a). The
14 requirement is mandatory. Booth v. Churner, 532 U.S. 731, 741 (2001).

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

- 16 1. Plaintiff’s October 4, 2011 request (dkt. no. 1) is denied without prejudice;
17 2. Plaintiff is granted thirty days from the date of service of this order to file a
18 complaint² that complies with the requirements of the Civil Rights Act, the Federal Rules of
19 Civil Procedure, and the Local Rules of Practice; the complaint must bear the docket number
20 assigned this case; plaintiff must file an original and two copies of the complaint. Plaintiff shall
21 also submit, within thirty days from the date of this order, the application to proceed in forma
22 pauperis on the form provided by the Clerk of Court, or the filing fee in the amount of \$350.00.

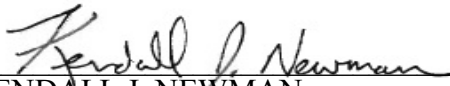
23 ¹ If leave to file in forma pauperis is granted, plaintiff will still be required to pay the
24 filing fee but will be allowed to pay it in installments.

25 ² Plaintiff is cautioned that if the alleged contractual agreement was filed with a court,
26 and plaintiff is seeking to enforce that agreement, plaintiff must file his action in the court in
which the agreement was entered.

1 Plaintiff's failure to comply with this order will result in a recommendation that this matter be
2 dismissed; and

3 3. The Clerk of the Court is directed to send plaintiff the court's form for filing a
4 civil rights action, and the application to proceed in forma pauperis by a prisoner.

5 DATED: October 7, 2011

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8 KENDALL J. NEWMAN
9 UNITED STATES MAGISTRATE JUDGE

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