

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURICE JOHNSON,
Plaintiff,
v.
TOM FELKER, et al.,
Defendants.

No. 2:12-cv-02719 GEB KJN (PC)

ORDER

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 December 3, 2013, plaintiff's first amended complaint was dismissed with leave to file a second amended complaint. ECF No. 19. Plaintiff has now filed an amended complaint.¹

The amended complaint states a potentially cognizable claim for relief against defendants pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action.

///
///

¹ The court issued findings and recommendations on January 10, 2014, recommending dismissal of this action due to plaintiff's failure to timely file a second amended complaint. ECF No. 20. However, plaintiff's second amended complaint was in fact timely filed on January 3, 2014. ECF No. 21; see Houston v. Lack, 487 U.S. 266, 276 (1988). Accordingly, the court will vacate the January 10, 2014 findings and recommendations.

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

2 1. The findings and recommendations filed on January 10, 2014 (ECF No. 20), are
3 vacated;

4 2. Service is appropriate for the following defendants: Matthew Cate, D. Griffith, P.
5 Statti, D. Spangle, B. Ingwerson, J. Lewis, L. Alexander, R. Anderson, C. Aston, J. Fannon, N.
6 Guzman, M. Lindsey, S. Look, D. McBride, B. Ramsey, and B. Wheeler.

7 3. The Clerk of the Court shall send plaintiff 16 USM-285 forms, one summons, an
8 instruction sheet and a copy of the second amended complaint filed January 3, 2014 (ECF No.
9 21).


10 4. Within thirty days from the date of this order, plaintiff shall complete the attached
11 Notice of Submission of Documents and submit the following documents to the court:

- 12 a. The completed Notice of Submission of Documents;
- 13 b. One completed summons;
- 14 c. One completed USM-285 form for each defendant listed in number 1 above;
- 15 and
- 16 d. 17 copies of the endorsed second amended complaint filed January 3, 2014.

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

21 Dated: January 17, 2014

22
23 john2719.1.amd


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURICE JOHNSON
Plaintiff,
v.
TOM FELKER, et al.
Defendants.

No. 2:12-cv-02719 GEB KJN (PC)

NOTICE OF SUBMISSION OF
DOCUMENTS

Plaintiff hereby submits the following documents in compliance with the court's order
filed _____ :
_____ completed summons form
_____ completed USM-285 forms
_____ copies of the _____
Amended Complaint

DATED:

Plaintiff