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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PETER T. HARRELL,
Plaintiff,
v.
HORN BROOK COMMUNITY
SERVICES DISTRICT, et al.,
Defendants.

No. 2:14-cv-1595 KJM GGH PS

ORDER

Plaintiff, proceeding in this action pro se, has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302(21), pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted an affidavit making the showing required by 28 U.S.C. § 1915(a)(1). Accordingly, the request to proceed in forma pauperis will be granted.

The determination that plaintiff may proceed in forma pauperis does not complete the required inquiry. Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss the case at any time if it determines the allegation of poverty is untrue, or the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant. The court cannot make this determination on the present record. Therefore, the court reserves decision on these issues until the record is sufficiently developed. On the present record,

1 plaintiff has stated a colorable claim for relief against defendants Hornbrook Community Services
2 District, Hanson, Brown, Barnes and Winston.¹

3 Good cause appearing, IT IS ORDERED that:

4 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

5 2. Service is appropriate for the following defendants: Hornbrook Community Services
6 District, Hanson, Brown, Barnes and Winston.

7 3. The Clerk of the Court is directed to issue forthwith, and the U.S. Marshal is directed
8 to serve within ninety days of the date of this order, all process pursuant to Fed. R. Civ. P. 4,
9 including a copy of this court's status order, without prepayment of costs.

10 4. The Clerk of the Court shall send plaintiff one USM-285 form for each defendant, one
11 summons, a copy of the complaint, an appropriate form for consent to trial by a magistrate judge,
12 and this court's status order.

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

16 The court anticipates that, to effect service, the U.S. Marshal will require at least:

- 17 a. One completed summons for each defendant;
18 b. One completed USM-285 form for each defendant;
19 c. One copy of the endorsed filed complaint for each defendant, with an extra
20 copy for the U.S. Marshal;
21 d. One copy of this court's status order for each defendant; and
22 e. One copy of the instant order for each defendant.

23 6. In the event the U.S. Marshal is unable, for any reason whatsoever, to effectuate
24 service on any defendant within 90 days from the date of this order, the Marshal is directed to

25 ¹ The complaint asserts that a state court action was filed on June 2, 2014, but that this action
26 seeks "different and additional relief, and of additional defendants," than the superior court case.
27 The court has considered the possibility that abstention may prevent this action from proceeding;
28 however, it does not have enough facts on the limited record before it to make this determination
at the present time. Therefore, the case may proceed without prejudice to such an argument being
raised in a properly noticed motion.

1 report that fact, and the reasons for it, to the undersigned.

2 7. The Clerk of the Court is directed to serve a copy of this order on the U.S. Marshal,
3 501 "I" Street, Sacramento, Ca., 95814, Tel. No. (916) 930-2030.

4 Dated: August 6, 2014

5 /s/ Gregory G. Hollows

6 UNITED STATES MAGISTRATE JUDGE

7 GGH:076:Harrell1595.srv

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