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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN WALKER,
Plaintiff,
v.
WHITING, et al.,
Defendants.

No. 2:14-cv-2064 CKD P

ORDER

Plaintiff is a Nevada state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and 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 pursuant to 28 U.S.C. § 636(b)(1).

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

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account

1 exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

2 Plaintiff's complaint concerns his incarceration at the Sacramento County Jail earlier this
3 year. He alleges that, when he was transferred to the jail on June 1, 2014, he had a medical
4 chrono for a lower bunk due to his health issues and recent stroke. After he was assigned a top
5 bunk, he informed defendant correctional officers Lee, Bilgera, Whiting, Johns, and Blanco about
6 the chrono, but they did nothing. He filed a grievance, and on June 10, defendant Lt. Massa
7 confirmed the chrono and notified custody staff, yet plaintiff was not reassigned to a lower bunk.
8 On June 14, while attempting to climb down from his bunk, plaintiff fell and injured his head, left
9 leg and ankle. Afterward, he could not put pressure on his left leg. On June 17, after plaintiff
10 filed a grievance, a non-defendant correctional officer ordered plaintiff to be moved to a bottom
11 bunk. (ECF No. 1.)

12 For the next several weeks, plaintiff required wound care for his leg. During this time, he
13 was housed in an area infested with roaches and other insects. Plaintiff alleges that he asked
14 defendants Bilgera, Blanco, Lee, and Johns for cleaning supplies for his cell, but they did not
15 supply them. (Id.)

16 The undersigned concludes that the complaint states a cognizable claim for relief pursuant
17 to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b) as to defendants Lee, Bilgera, Whiting, Johns,
18 Blanco, and Massa concerning their alleged deliberate indifference to plaintiff's need for a lower
19 bunk. If the allegations of the complaint are proven, plaintiff has a reasonable opportunity to
20 prevail on the merits of this action.

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

22 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 3) is granted.

23 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
24 shall be collected and paid in accordance with this court's order to the Nevada Department of
25 Corrections (NDOC) filed concurrently herewith.

26 3. Service is appropriate for the following defendants: Lee, Bilgera, Whiting, Johns,
27 Blanco, and Massa.

28 /////

1 4. The Clerk of the Court shall send plaintiff six USM-285 forms, one summons, an
2 instruction sheet and a copy of the complaint filed September 5, 2014.

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

- 5 a. The completed Notice of Submission of Documents;
- 6 b. One completed summons;
- 7 c. One completed USM-285 form for each defendant listed in number 3 above;

8 and

- 9 d. Seven copies of the endorsed complaint filed September 5, 2014.

10 6. Plaintiff need not attempt service on defendants and need not request waiver of service.
11 Upon receipt of the above-described documents, the court will direct the United States Marshal to
12 serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment
13 of costs.

14 Dated: October 15, 2014



15 _____
16 CAROLYN K. DELANEY
17 UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN WALKER,
Plaintiff,
v.
WHITING, et al.,
Defendants.

No. 2:14-cv-2064 CKD P

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 _____

Complaint

DATED:

Plaintiff