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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LERROY CARR,  
Plaintiff,  
v.  
FEDERAL BUREAU OF PRISONS, et al.,  
Defendants.

No. 2:14-cv-2110 JAM CKD P

ORDER

Plaintiff is a federal prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. This action proceeds on the first amended complaint, in which plaintiff alleges that, after tearing a tendon in his knee at the Herlong Federal Correctional Institution, he did not receive medically necessary surgery for more than six months and was not given adequate pain medication or physical therapy. (ECF No. 16 (“FAC”).)

Previously, the FAC was determined to state a cognizable Eighth Amendment claim against defendant Dr. Giron, and service was ordered on this defendant. (ECF Nos. 17, 19 & 21.) All other claims were dismissed, including plaintiff’s claim under the Federal Tort Claims Act (“FTCA”). (ECF Nos. 17 & 19.) However, on April 11, 2016, the district judge assigned to this action granted plaintiff’s motion for reconsideration, vacated the above screening order, and directed the undersigned to rescreen the FAC. (ECF No. 45.) See 28 U.S.C. § 1915A(a).

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1 Having reviewed the FAC, the undersigned finds that it states a cognizable Eighth  
2 Amendment claim against defendant Giron and a cognizable claim against the United States of  
3 American under the FTCA. If the allegations of the amended complaint are proven, plaintiff has  
4 a reasonable opportunity to prevail on the merits of this action.


5 Accordingly, IT IS HEREBY ORDERED that:

6 1. The Clerk of Court is directed to prepare three summons and copies of the complaint  
7 filed January 26, 2015 and submit these documents to the United States Marshal for service on  
8 defendant United States of America.

9 2. The United States Marshal is directed to serve all process without prepayment of costs  
10 not later than sixty days from the date of this order. Service of process shall be completed by  
11 delivering a copy of the summons and complaint to the United States Attorney for the Eastern  
12 District of California, and by sending a copy of the summons and complaint by registered or  
13 certified mail to the Attorney General of the United States at Washington, D.C. See Fed. R. Civ.  
14 P. 4(i)(1)(A) & (B). The Marshal shall also send a copy of the summons and complaint by  
15 registered or certified mail to the Warden, Federal Correctional Institution-Herlong, at 741-925  
16 Access Road A-25, Herlong, CA, 96113. See Fed. R. Civ. P. 4(i)(2).

17 3. Plaintiff's motion for hearing (ECF No. 46) is denied as moot per the April 11, 2016  
18 order and the instant order.

19 Dated: May 27, 2016

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22 CAROLYN K. DELANEY  
23 UNITED STATES MAGISTRATE JUDGE

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