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

STEPHEN B. RALEY,

No. 2:14-cv-2652-JAM-CMK

Plaintiff,

vs.

ORDER

BOB WILLIAMS, et al.,

Defendants.

_____/

Plaintiff, proceeding pro se, bring this civil action. Pending before the court is plaintiff's motion to proceed in forma pauperis (Doc. 2) and his complaint (Doc. 1).

Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing that plaintiff is unable to prepay fees and costs or give security therefor. His motion to proceed in forma pauperis will therefore be granted.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The court is also required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under these screening provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or

1 malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief
2 from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and
3 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h), this court must
4 dismiss an action “[w]henver it appears . . . that the court lacks jurisdiction of the subject matter
5” Because plaintiff, who is not a prisoner, has been granted leave to proceed in forma
6 pauperis, the court will screen the complaint pursuant to § 1915(e)(2).

7 In this case, plaintiff challenges the defendants actions regarding the abatement of
8 his medicinal marijuana plants. He alleges, *inter alia*, that his Constitutional rights were
9 violated, including the Fourth, Fifth and Fourteenth Amendments, that the County ordinance
10 regarding the abatement is unlawful, and that the defendants exceeded their authority.

11 The court concludes that it has subject matter jurisdiction and that the complaint is
12 appropriate for service by the United States Marshal without pre-payment of costs. If plaintiff
13 desires service of process by the United States Marshal without pre-payment of costs, plaintiff
14 must comply with the requirements outlined below. Plaintiff is warned that failure to comply
15 with this order, or otherwise effect service pursuant to Federal Rule of Civil Procedure 4, may
16 result in dismissal of the action for lack of prosecution and failure to comply with court rules and
17 orders. See Local Rule 110.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff’s motion to proceed in forma pauperis (Doc. 2) is granted;
- 20 2. The Clerk of the Court shall issue a summons in a civil case, the
21 undersigned’s new case documents, and an order setting this matter for an initial scheduling
22 conference;
- 23 3. The Clerk of the Court shall send plaintiff the summons, a USM-285 form,
24 and a copy of the complaint;
- 25 4. Within 15 days from the date of this order, plaintiff shall complete the
26 summons by indicating the addresses of the named defendants and shall submit to the United

1 States Marshal at the address indicated below the following documents:

- 2 a. The completed summons;
- 3 b. One completed USM-285 form for each named defendant;
- 4 c. Two copies of the complaint; and
- 5 d. Two copies of the court's initial scheduling conference order

6 issued herewith;

7 5. Within 20 days of the date of this order, plaintiff shall file a notice
8 indicating that the documents described above have been submitted to the United States Marshal,
9 or a notice that plaintiff intends to serve the summons and complaint without assistance from the
10 United States Marshal;

11 6. If plaintiff seeks the assistance of the United States Marshal, the United
12 States Marshal is directed to serve all process without pre-payment of costs not later than 60 days
13 from the date of this order, such service of process to be completed by serving a copy of the
14 summons, complaint, and initial scheduling conference order on the defendants at the addresses
15 provided by plaintiff; and

16 7. The Clerk of the Court is directed to serve a copy of this order on the
17 United States Marshal at 501 "I" Street, Sacramento, CA, 95814.

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19 DATED: January 24, 2018

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21 **CRAIG M. KELLISON**
22 UNITED STATES MAGISTRATE JUDGE
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