

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

## JIMMY BLUNT.

No. 2:15-cv-0412 WBS CKD P

Plaintiff,

## ORDER AND

J.S. JOHNSON, et al.,

## FINDINGS AND RECOMMENDATIONS

## Defendants.

Plaintiff is a 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).

With respect to the application to proceed in forma pauperis, 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

1 the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account  
2 exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

3 The court is required to screen complaints brought by prisoners seeking relief against a  
4 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
5 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally  
6 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek  
7 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

8 The court has conducted the required screening and finds that plaintiff may proceed on an  
9 Eighth Amendment claim for excessive force against defendant Johnson. Therefore, plaintiff will  
10 order service of process upon defendant Johnson. With respect to the other defendants, plaintiff's  
11 complaint fails to state a claim upon which relief can be granted.<sup>1</sup>

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

13 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 2) is granted.

14 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees  
15 shall be collected and paid in accordance with this court's order to the Director of the California  
16 Department of Corrections and Rehabilitation filed concurrently herewith.

17 3. Service is appropriate for defendant Johnson.

18 4. The Clerk of the Court shall send plaintiff one USM-285 form, one summons, an  
19 instruction sheet and a copy of the complaint.

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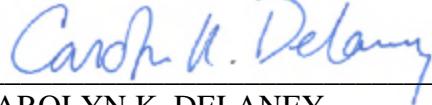
23 <sup>1</sup> With respect to the remaining defendants, plaintiff fails to point to any actionable injury. For  
24 example, he makes allegations about certain defendants' conduct during prisoner disciplinary  
25 proceedings. However, plaintiff was found not guilty of the charges alleged. Also, he complains  
26 that he was forced to serve brief stays in segregated housing. However, plaintiff fails to allege  
27 that he suffered "atypical and significant hardship" while in segregated housing. See Sandin v.  
28 Conner, 515 U.S. 472, 484 (1995). Finally, plaintiff alleges certain defendants retaliated against  
plaintiff for filing prisoner grievances. However, plaintiff either fails to allege that the retaliation  
actually amounted to anything adverse or the adverse "action did not advance legitimate goals of  
the correctional institution." Rizzo v. Dawson, 778 F.2d 527, 531-32 (9th Cir. 1985).

1           5. Within thirty days from the date of this order, plaintiff shall complete the attached  
2 Notice of Submission of Documents and submit the following documents to the court:  
3           a. The completed Notice of Submission of Documents;  
4           b. One completed summons;  
5           c. One completed USM-285 form; and  
6           d. Two copies of the complaint.  
7           6. Plaintiff need not attempt service on defendant Johnson and need not request waiver of  
8 service. Upon receipt of the above-described documents, the court will direct the United States  
9 Marshal to serve defendant Johnson pursuant to Federal Rule of Civil Procedure 4 without  
10 payment of costs.

11           IT IS HEREBY RECOMMENDED that all defendants other than defendant Johnson be  
12 dismissed.

13           These findings and recommendations are submitted to the United States District Judge  
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
15 after being served with these findings and recommendations, plaintiff may file written objections  
16 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
17 and Recommendations." Plaintiff is advised that failure to file objections within the specified  
18 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153  
19 (9th Cir. 1991).

20           Dated: March 18, 2015

  
21           CAROLYN K. DELANEY  
22           UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

## JIMMY BLUNT

No. 2:15-cv-0412 WBS CKD P

**Plaintiff,**

V.

J.S. JOHNSON, et al.,

**NOTICE OF SUBMISSION OF  
DOCUMENTS**

## Defendants.

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