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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORLANDO RAYNARD ELLISON,
Plaintiff,
v.
FABIAN FARMER, et al.,
Defendants.

No. 2:15-cv-1140 TLN CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

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).

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 twenty percent of the preceding month's income credited to plaintiff's prison trust account and forward it to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The

1 court has conducted the required screening and finds that plaintiff states viable claims arising
2 under the First Amendment against defendants Farmer and Pingol to the extent plaintiff alleges
3 they retaliated against him for his use of the inmate grievance process. Because there are no facts
4 suggesting defendant Thumser retaliated against plaintiff for his use of the inmate grievance
5 process, the court will recommend that he be dismissed.

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

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

8 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff
9 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.
10 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the
11 Director of the California Department of Corrections and Rehabilitation filed concurrently
12 herewith.

13 3. Service is appropriate for defendants Farmer and Pingol.

14 4. The Clerk of the Court shall send plaintiff two USM-285 forms, one summons, an
15 instruction sheet and a copy of the complaint filed May 27, 2015.

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

18 a. The completed Notice of Submission of Documents;

19 b. One completed summons;

20 c. One completed USM-285 form for each defendant listed in number 3 above;

21 and

22 d. Three copies of the endorsed complaint filed.

23 6. Plaintiff need not attempt service on defendants and need not request waiver of service.

24 Upon receipt of the above-described documents, the court will direct the United States Marshal to
25 serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment
26 of costs.

27 /////

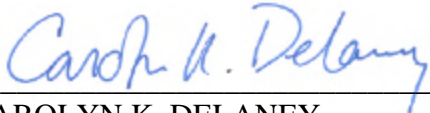
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IT IS HEREBY RECOMMENDED that defendant Thumser be dismissed.

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

Dated: August 25, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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No. 2:15-cv-1140 TLN CKD P

NOTICE OF SUBMISSION OF
DOCUMENTS

Plaintiff 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