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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH DUANE TURNER,  
Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,  
Defendants.

No. 2:15-cv-1584 DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. Plaintiff contends that while he was incarcerated at Deuel Vocational Institution (“DVI”) defendants retaliated against him for exercising his First Amendment rights. On April 17, 2017, plaintiff filed a first amended complaint. (ECF No. 30.) In an order filed July 7, 2017, the court screened that complaint. (ECF No. 32.) The court found plaintiff stated cognizable claims for retaliation and conspiracy against defendants Johnson and Brennan. The court dismissed defendant California Department of Corrections and Rehabilitation. The court further found plaintiff failed to state claims against defendants Norris, Silveira, Mariano, Dulk, Brunetti, Dobie, Rodrigues, Parsons, Martin, Marquez, Kesterson, Gaughan, Thomas, Price, Murphy, Lui, Hemenway, Vila, Briggs, Voong, Beard, and Kernan. Plaintiff was given the opportunity to amend his complaint to attempt to state cognizable claims

1 against these defendants or to proceed on his first amended complaint against only defendants  
2 Johnson and Brennan.

3 On August 8, 2017, plaintiff submitted service documents for defendants Johnson and  
4 Brennan. (ECF No. 33.) Plaintiff did not, however, provide sufficient copies of his first amended  
5 complaint. Plaintiff's first amended complaint and its attachments are 284 pages long. He  
6 provided copies of only the first 18 pages. Service on these defendants requires complete copies  
7 of the first amended complaint and all attached documents.

8 Additionally, in his August 8 filing, plaintiff stated that he did not consent to dismissal of  
9 defendants Norris, Silveira, Mariano, Dulk, Brunetti, Dobie, Rodrigues, Parsons, Martin,  
10 Marquez, Kesterson, Gaughan, Thomas, Price, Murphy, Lui, Hemenway, Vila, Briggs, Voong,  
11 Beard, and Kernan. Plaintiff states that he adequately alleged claims against those defendants.

12 The court has considered plaintiff's argument that he adequately alleged claims against  
13 these 22 defendants in his first amended complaint. For the reasons stated in the July screening  
14 order, the court again finds that plaintiff has not done so. Therefore, at this juncture, plaintiff has  
15 three choices: (1) he may file an amended complaint as explained in the July 7 screening order;  
16 (2) he may seek reconsideration of the court's July 7 screening order from the district judge; or  
17 (3) he may proceed on his claims in the first amended complaint against only defendants Johnson  
18 and Brennan.


19 Accordingly, IT IS HEREBY ORDERED as follows:

- 20 1. Because plaintiff has not consented to the jurisdiction of a magistrate judge, the Clerk  
21 of the Court is directed to assign a district judge to this case.
- 22 2. Within 30 days of the filed date of this order, plaintiff may do one of three things:
  - 23 a. File an amended complaint to attempt to state claims against defendants Norris,  
24 Silveira, Mariano, Dulk, Brunetti, Dobie, Rodrigues, Parsons, Martin, Marquez,  
25 Kesterson, Gaughan, Thomas, Price, Murphy, Lui, Hemenway, Vila, Briggs,  
26 Voong, Beard, and Kernan;
  - 27 b. File a motion for reconsideration by the district judge of this court's July 7  
28 screening order; or

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c. Inform the court that he wishes to proceed on his first amended complaint against only defendants Johnson and Brennan. If plaintiff chooses this option, he must provide the court with three complete copies of the endorsed first amended complaint filed April 17, 2017 so that the Marshal may effect service of the first amended complaint on defendants Johnson and Brennan.

Dated: August 15, 2017

  
DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE

DLB:9  
DLB1/prisoner-civil rights/turn1584.fta(2)