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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN HEILMAN,  
Plaintiff,  
v.  
A. WHITTEN, et al.,  
Defendants.

No. 2:15-cv-1585 MCE CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis, who seeks relief pursuant to 42 U.S.C. § 1983. On September 25, 2015, plaintiff’s original complaint was dismissed for failure to state a claim. (ECF No. 6.) Plaintiff has filed a first amended complaint (FAC), now before the court for screening. (ECF No. 11.) See 28 U.S.C. § 1915A(a).

Construing the FAC in the light most favorable to plaintiff, the undersigned concludes that it states a First Amendment retaliation claim against defendants Whitten, Dooley, and Mendosa. As to plaintiff’s access-to-courts claim, the FAC fails to cure the defects of the original complaint as set forth in the September 25, 2015 screening order.

Accordingly, IT IS HEREBY ORDERED that:

1. Service is appropriate for the following defendants: Whitten, Dooley, and Mendosa.
2. The Clerk of the Court shall send plaintiff three USM-285 forms, one summons, an

1 instruction sheet and a copy of the amended complaint filed November 2, 2015.

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

- 4 a. The completed Notice of Submission of Documents;  
5 b. One completed summons;  
6 c. One completed USM-285 form for each defendant listed in number 1 above;  
7 d. Four copies of the endorsed amended complaint filed November 2, 2015.

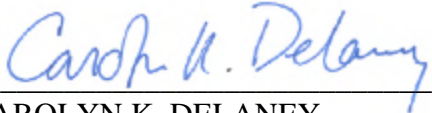
8 4. Plaintiff need not attempt service on defendants and need not request waiver of service.

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

12 IT IS HEREBY RECOMMENDED that all defendants and claims be dismissed from this  
13 action except First Amendment retaliation claims against defendants Whitten, Dooley, and  
14 Mendosa.

15 These findings and recommendations are submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
17 after being served with these findings and recommendations, plaintiff may file written objections  
18 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings  
19 and Recommendations." Plaintiff is advised that failure to file objections within the specified  
20 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153  
21 (9th Cir. 1991).

22 Dated: January 25, 2016

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25 CAROLYN K. DELANEY  
26 UNITED STATES MAGISTRATE JUDGE  
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A. WHITTEN, et al.,  
Defendants.

No. 2:15-cv-1585 MCE CKD P

NOTICE OF SUBMISSION OF  
DOCUMENTS

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