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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSH THOMAS,
Plaintiff,
v.
J. BICK, et al.,
Defendants.

No. 2:16-cv-1425 TLN CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Before the court for screening is plaintiff’s first amended complaint. The amended complaint states a cognizable claim under 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of his Eighth Amendment claims against defendant Doctors Bick and Dhillon concerning treatment for “Valley Fever.”

As for the remainder of plaintiff’s claims, plaintiff either fails to state a claim upon which relief can be granted,¹ or has improperly joined claims against other defendants.²

¹ Defendant asserts defendants Ditomas, Clark and Lewis denied prisoner grievances concerning the treatment of Bick and Dhillon. But plaintiff fails to point to facts indicating that anyone

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

2 1. Service is appropriate for defendants Bick and Dhillon.

3 2. The Clerk of the Court shall send plaintiff two USM-285 forms, one summons, an
4 instruction sheet and a copy of the amended complaint.

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

7 a. The completed Notice of Submission of Documents;

8 b. One completed summons;

9 c. One completed USM-285 form for each defendant listed in number 1 above;

10 and

11 d. Three copies of the endorsed amended complaint.

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

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

16 IT IS HEREBY RECOMMENDED that that all defendants other than Bick and Dhillon
17 be dismissed.

18 These findings and recommendations are submitted to the United States District Judge
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
20 after being served with these findings and recommendations, any party may file written
21 objections with the court and serve a copy on all parties. Such a document should be captioned

22
23 reviewing plaintiff's grievances had the authority to change the treatment prescribed by Dr. Bick
24 or Dr. Dhillon. Plaintiff also fails to allege sufficient facts suggesting he suffered actionable
25 injury as a result of, at least, the deliberate indifference of the defendants reviewing grievances.
26 See Estelle v. Gamble, 429 U.S. 97, 104-05 (1976).

27 ² As a general rule, plaintiff may include as many claims as he likes with respect to one
28 defendant in one action. However, claims against additional defendants in the same action must
arise out of the "same transaction, occurrence or series of transactions or occurrences." Fed. R.
Civ. P. 20(a)(2)(A). Plaintiff was informed of this when the court dismissed his original
complaint with leave to amend.

1 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
2 objections shall be served and filed within fourteen days after service of the objections. The
3 parties are advised that failure to file objections within the specified time may waive the right to
4 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

5 Dated: December 7, 2017



6 CAROLYN K. DELANEY
7 UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
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No. 2:16-cv-1425 TLN 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 _____
Amended Complaint

DATED:

Plaintiff