

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TYRONE JAMES,  
  
                                Plaintiff,  
  
                                v.  
  
MAXINE HARDEN,  
  
                                Defendant.

No. 2:16-cv-1730 KJM CKD PS

ORDER AND  
ORDER TO SHOW CAUSE

Plaintiff is proceeding in this action pro se. Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis. This proceeding was referred to this court by Local Rule 302(c)(21).

Plaintiff has submitted the affidavit required by § 1915(a) showing that plaintiff is unable to prepay fees and costs or give security for them. Accordingly, the request to proceed in forma pauperis will be granted. 28 U.S.C. § 1915(a).

The complaint names as a defendant plaintiff’s mother. Plaintiff alleges that defendant violated his civil rights. However, defendant does not appear to be a state actor and therefore a claim under the Civil Rights Act, 42 U.S.C. § 1983, cannot lie.

The federal courts are courts of limited jurisdiction. In the absence of a basis for federal jurisdiction, plaintiff’s claims cannot proceed in this venue. Because there is no basis for federal subject matter jurisdiction evident in the complaint, plaintiff will be ordered to show cause why

1 this action should not be dismissed. Failure to allege a proper basis for subject matter jurisdiction  
2 will result in a recommendation that the action be dismissed.

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

- 4 1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is granted;
- 5 2. No later than August 17, 2016, plaintiff shall show cause why this action should not be  
6 dismissed for lack of subject matter jurisdiction. Failure to establish a proper basis for subject  
7 matter jurisdiction will result in a recommendation that this action be dismissed without  
8 prejudice.

9 Dated: August 3, 2016

  
\_\_\_\_\_  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

12 4 james1730.osc.nosmj.ifp

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28