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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOUGLAS PIPER,
Plaintiff,
v.
HARVEYS CASINO, et al.,
Defendants.

No. 2:16-cv-2374 GEB CKD PS

ORDER AND ORDER DIRECTING
SERVICE BY THE UNITED STATES
MARSHAL WITHOUT PREPAYMENT OF
COSTS;

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se and in forma pauperis. Plaintiff has filed a second amended complaint, alleging claims under 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss the case at any time if it determines the allegation of poverty is untrue, or the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant. The court cannot make this determination on the present record as to defendants City of South Lake Tahoe, South Lake Tahoe Police Department, and Officer Honsell. Therefore, the court reserves decision on these issues until the record is sufficiently developed. The court will order service as to these defendants.

Plaintiff has now filed three complaints in this action; in each of the complaints, plaintiff has failed to state a claim with respect to the remaining defendants, Harveys Casino and Barton

1 Hospital. The court will therefore decline to order service as to these defendants and will
2 recommend that they be dismissed.

3 Good cause appearing, IT IS ORDERED that:

4 1. Service of summons is appropriate for defendants City of South Lake Tahoe, South
5 Lake Tahoe Police Department, and Officer Honsell.

6 2. The United States Marshal is directed to serve within ninety days of the date of this
7 order, all process pursuant to Fed. R. Civ. P. 4(e) and 4(j) without prepayment of costs.

8 3. The Clerk of the Court shall send plaintiff one USM-285 form for each of the
9 defendants listed in paragraph one of this order, three summons, and a copy of the second
10 amended complaint filed April 3, 2017.

11 4. Plaintiff is directed to provide to the United States Marshal, within fourteen days from
12 the date this order is filed, all information needed by the Marshal to effect service of process,
13 including all information required for proper service of summons under Federal Rules of Civil
14 Procedure 4(e) and 4(j) and shall file a statement with the court that said documents have been
15 submitted to the United States Marshal, along with a copy of the information provided to the
16 Marshal, including copies of the USM-285 forms. The court anticipates that, to effect service, the
17 U.S. Marshal will require at least:

- 18 a. One completed summons for each defendant;
- 19 b. One completed USM-285 form for each defendant;
- 20 c. One copy of the endorsed filed second amended complaint for each defendant,
21 with an extra copy for the U.S. Marshal; and
- 22 d. One copy of the instant order for each defendant.

23 5. In the event the U.S. Marshal is unable, for any reason whatsoever, to effectuate
24 service on any defendant within 90 days from the date of this order, the Marshal is directed to
25 report that fact, and the reasons for it, to the undersigned.

26 6. The Clerk of the Court is directed to serve a copy of this order on the United States
27 Marshal, 501 "I" Street, Sacramento, Ca., 95814, Tel. No. (916) 930-2030; and

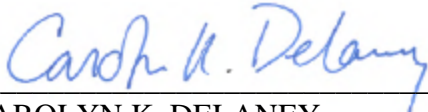
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IT IS HEREBY RECOMMENDED that defendants Harveys Casino and Barton Hospital be dismissed.

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, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” 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: April 5, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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