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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND M. DOUGLAS,
Plaintiff,

v.

SACRAMENTO POLICE OFFICER
RATH – BADGE #610, an officer,
Defendant.

No. 2:16-cv-2952 TLN AC (PS)

ORDER

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned, for pretrial proceedings, by E.D. Cal. R. (“Local Rule”) 302(c)(21). This case is related to Douglas v. Sacramento County Sheriff’s Deputy Huffman – Badge #458, 2:16-cv-2953 TLN AC (E.D. Cal.). ECF No. 7.

Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis (“IFP”). Plaintiff has submitted the affidavit required by Section 1915(a) showing that plaintiff is unable to prepay fees and costs or give security for them. ECF No. 2. Accordingly, the request to proceed in forma pauperis will be granted. 28 U.S.C. § 1915(a).

I. SCREENING

Granting IFP status does not end the court’s inquiry. The federal IFP statute requires federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a

1 claim upon which relief may be granted, or seeks monetary relief from a defendant who is
2 immune from such relief. 28 U.S.C. § 1915(e)(2).

3 Here, plaintiff alleges that defendant arrested him without probable cause, on March 23,
4 2015, at or around 10:30 p.m., while plaintiff was doing nothing wrong. For screening purposes,
5 the complaint appears to state a claim for unlawful arrest cognizable under § 1983 as a violation
6 of the Fourth Amendment. See Dubner v. City & County of San Francisco, 266 F.3d 959, 964
7 (9th Cir. 2001) (“[a] claim for unlawful arrest is cognizable under § 1983 as a violation of the
8 Fourth Amendment, provided the arrest was without probable cause or other justification”). If the
9 allegations of the complaint are proven, plaintiff has a reasonable opportunity to prevail on the
10 merits of this action.¹

11 II. CONCLUSION

12 For the reasons stated above, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2), is GRANTED.
- 14 2. The Clerk of the Court is directed to issue and serve on plaintiff the undersigned’s
15 Order Setting Status Conference.
- 16 3. Service is appropriate for the following defendant: Sacramento Police Officer Rath,
17 Badge # 610.
- 18 4. The Clerk of the Court is directed to issue forthwith, and the U.S. Marshal is directed
19 to serve within ninety days of the date of this order, all process pursuant to Federal
20 Rule of Civil Procedure 4, without prepayment of costs.
- 21 5. The Clerk of the Court shall send to plaintiff: one USM-285 form; one summons for
22 each defendant; one copy of the endorsed filed complaint; and one form for consent to
23 trial by the magistrate judge.
- 24 6. Plaintiff is directed to provide to the U.S. Marshal, within 15 days from the date of this
25 order, all information needed by the Marshal to effect service of process, and shall file

26 _____
27 ¹ Since plaintiff has alleged at least one possibly cognizable claim, the action is not dismissible
28 on this screening. See 28 U.S.C. § 1915(e)(2)(B) (calling for dismissal if “the action” is frivolous
or fails to state a claim). Accordingly, the court will not address plaintiff’s other claims here, as
defendant can address them at an appropriate time.

1 a statement with the court that said documents have been submitted to the United
2 States Marshal. The court anticipates that, to effect service, the U.S. Marshal will
3 require, at least:

4 a. One completed USM-285 form;

5 b. For each defendant,

6 i. One completed summons;

7 ii. One copy of the endorsed filed complaint;

8 iii. One copy of the undersigned's Order Setting Status Conference;

9 iv. One copy of the form for consent to trial by the magistrate judge;

10 v. One copy of the instant order; and

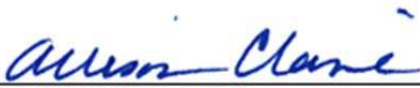
11 c. An extra copy of the endorsed filed complaint for the U.S. Marshal.

12 7. In the event the U.S. Marshal is unable, for any reason whatsoever, to effect service on
13 Officer Rath within 90 days from the date of this order, the Marshal is directed to
14 report that fact, and the reasons for it, to the undersigned.

15 8. The Clerk of the Court is directed to serve a copy of this order on the U.S. Marshal,
16 501 "I" Street, Sacramento, Ca., 95814, Tel. No. (916) 930-2030.

17 9. Failure to comply with this order may result in a recommendation that this action be
18 dismissed.

19 DATED: February 16, 2017

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21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE
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UNITED STATES DISTRICT COURT
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SACRAMENTO POLICE OFFICER
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Defendants.

No. 2:16-cv-2952 TLN AC (PS)

NOTICE OF SUBMISSION

Plaintiff has submitted the following documents to the U.S. Marshal, in compliance with the court’s order filed _____:

- _____ completed USM-285 form
- _____ completed summons form
- _____ copy of the endorsed filed complaint
- _____ copy of the form for consent to trial by the magistrate judge
- _____ copy of the undersigned’s Order Setting Status Conference

Date

Plaintiff’s Signature