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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROY DIAZ,  
Plaintiff,  
v.  
N. DIXON, et al.,  
Defendants.

No. 2:17-cv-1240 CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se. On November 9, 2017, the court screened plaintiff's complaint as the court is required to do under 28 U.S.C. § 1915A(a). The court informed plaintiff that his complaint states a claim upon which relief could be granted arising under the Eighth Amendment against defendants Dixon and Farris for use of excessive force and, in all other respects, plaintiff's complaint fails to state claims upon which relief can be granted. The court informed plaintiff that he could proceed on his Eighth Amendment claims against Dixon and Farris, or attempt to cure the deficiencies with respect to other claims in an amended complaint. The time allotted to plaintiff to file an amended complaint has expired. Therefore, this action will proceed on the Eighth Amendment claims against Dixon and Ferris.

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

2 1. Service of process is appropriate for defendants Dixon and Ferris.

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 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 complaint.

12 4. Plaintiff need not attempt service on any defendant and need not request waiver of  
13 service. Upon receipt of the above-described documents, the court will direct the United States  
14 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4  
15 without payment of costs.

16 5. The Clerk of the Court assign a district court judge to this case.

17 IT IS HEREBY RECOMMENDED that all defendants other than defendants Dixon and  
18 Ferris be dismissed.

19 These findings and recommendations will be submitted to the United States District Judge  
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
21 after being served with these findings and recommendations, plaintiff may file written objections  
22 with the court. The document should be captioned "Objections to Findings and  
23 Recommendations." Plaintiff is advised that failure to file objections within the specified time

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1 may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th  
2 Cir. 1991).

3 Dated: December 26, 2017



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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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Defendants.

No. 2:17-cv-1240 CKD P

NOTICE OF SUBMISSION OF  
DOCUMENTS

Plaintiff 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