

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

ABIUD VALENCIA GUEVARA,
Plaintiff,
v.
ROBERT SMITH, et al.,
Defendants.

No. 2:17-cv-1820 AC P


ORDER

Plaintiff, proceeding through counsel, has filed a civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 1. In the complaint, plaintiff alleges that his rights under the Eighth Amendment were violated by prison medical staff. Id. The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). “[A] court may screen a complaint pursuant to 28 U.S.C. § 1915A only if, at the time the plaintiff files the complaint, he is ‘incarcerated or detained in any facility [because he] is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.’” Olivas v. Nev. ex rel. Dep’t of Corr., 856 F.3d 1281, 1284 (9th Cir. 2017) (quoting 28 U.S.C. § 1915A). Because it is unclear whether plaintiff was a prisoner at the time he filed the complaint, the court is unable to determine whether the complaint is subject to screening under § 1915A.

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

Accordingly, IT IS HEREBY ORDERED that within seven days of the filing of this order, plaintiff must notify the court whether he was a prisoner at the time he filed the complaint. If plaintiff was a prisoner, the court will proceed to screen the complaint in due course. If plaintiff was not a prisoner, he must proceed with serving the complaint.

DATED: July 10, 2017



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE