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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CAMERON MORFIN,  
Plaintiff,  
v.  
G. PEREZ, et al.,  
Defendants.

No. 2:17-cv-2343 MCE CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect twenty percent of the preceding month's income credited to plaintiff's prison trust account and forward it to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

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). The

1 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally  
2 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek  
3 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

4 The court has conducted the required screening and finds that plaintiff may proceed on a  
5 claim against defendant Perez arising under the Eighth Amendment for excessive force. As for  
6 defendant Duncan, plaintiff fails to allege facts suggesting she violated any of plaintiff’s federal  
7 rights. Plaintiff alleges Duncan falsified medical records concerning the extent of his injuries  
8 following his encounter with defendant Perez, but falsification of records does not, by itself,  
9 violate federal law and plaintiff fails to allege facts indicating the falsification led to any  
10 actionable harm.

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

12 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted.

13 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff  
14 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.  
15 § 1915(b)(1). All fees shall be collected and paid in accordance with this court’s order to the  
16 California Department of Corrections and Rehabilitation filed concurrently herewith.

17 3. Service is appropriate for defendant Perez.

18 4. The Clerk of the Court shall send plaintiff a USM-285 form, one summons, an  
19 instruction sheet and a copy of the complaint.

20 5. Within thirty days from the date of this order, plaintiff shall complete the attached  
21 Notice of Submission of Documents and submit the following documents to the court:

- 22 a. The completed Notice of Submission of Documents;
- 23 b. One completed summons;
- 24 c. One completed USM-285; and
- 25 d. Two copies of the complaint.

26 6. Plaintiff need not attempt service on defendant Perez and need not request waiver of  
27 service. Upon receipt of the above-described documents, the court will direct the United States

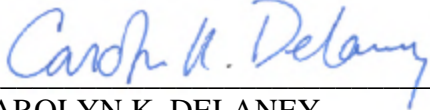
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1 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4  
2 without payment of costs.

3 IT IS HEREBY RECOMMENDED that defendant Duncan be dismissed.

4 These findings and recommendations are submitted to the United States District Judge  
5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
6 after being served with these findings and recommendations, any party may file written  
7 objections with the court and serve a copy on all parties. Such a document should be captioned  
8 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the  
9 objections shall be served and filed within fourteen days after service of the objections. The  
10 parties are advised that failure to file objections within the specified time may waive the right to  
11 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: November 29, 2017

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15 CAROLYN K. DELANEY  
16 UNITED STATES MAGISTRATE JUDGE

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No. 2:17-cv-2343 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