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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN GARCIA RODRIGUEZ,  
Plaintiff,  
v.  
DAVID BAUGHMAN, et al.,  
Defendants.

No. 2:18-cv-0655 CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. 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). As plaintiff was informed in the court’s July 30, 2018 order, the court conducted the required screening and found that claim 1 in plaintiff’s complaint states a claim upon which relief could be granted arising under the Eighth Amendment against defendant Dr. Friend. As for claim 2 against defendant Warden Baughman, plaintiff does not state a claim upon which relief could be granted as plaintiff does not plead facts which connect defendant Warden Baughman to any actionable injury.<sup>1</sup> Plaintiff was given the option of filing an amended complaint or proceeding

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<sup>1</sup> As plaintiff was informed in the July 30, 2018 order, an official can only be held liable under section 1983 upon a showing of personal participation. Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989). There is no respondeat superior liability under section 1983. Id. “A plaintiff must allege facts, not simply conclusions, that show that an individual was personally involved in the

1 on claim 1 against defendant Dr. Friend. Plaintiff has elected to proceed on claim 1 against  
2 defendant Dr. Friend.

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

4 1. Service is appropriate for defendant Dr Friend.

5 2. The Clerk of the Court shall send plaintiff a USM-285 form, a summons, an instruction  
6 sheet and a copy of the complaint.

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

9 a. The completed Notice of Submission of Documents;

10 b. One completed summons;

11 c. One completed USM-285 form; and

12 d. Two copies of the complaint.

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

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

18 IT IS HEREBY RECOMMENDED that defendant Warden Baughman be dismissed.

19 These findings and recommendations are 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 after  
21 being served with these findings and recommendations, plaintiff may file written objections with  
22 the court. The document should be captioned "Objections to Magistrate Judge's Findings and  
23 Recommendations." Plaintiff is advised that failure to file objections within the specified time

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27 \_\_\_\_\_  
28 deprivation of his civil rights." Barren v. Harrington, 152 F.3d 1193, 1194-95 (9th Cir. 1998).

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

3 Dated: August 28, 2018



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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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v.  
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Defendants.

No. 2:18-cv-0655 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