



1 provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or  
2 malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief  
3 from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and  
4 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h)(3), this court  
5 must dismiss an action if the court determines that it lacks subject matter jurisdiction. Because  
6 plaintiff, who is not a prisoner, is being granted leave to proceed in forma pauperis, the court will  
7 screen the complaint pursuant to § 1915(e)(2). Pursuant to Rule 12(h), the court will also  
8 consider as a threshold matter whether it has subject-matter jurisdiction.

9           In this case, plaintiff alleges that defendants, who are parole agents in Butte  
10 County or correctional officers at the Butte County Jail, violated his constitutional and statutory  
11 rights by denying his adequate access for persons with hearing disabilities, failing to provide  
12 medical care, failing to provide replacement eyeglasses, using excessive force, and ignoring his  
13 religious dietary requirements. The court concludes that it has subject matter jurisdiction and  
14 that the complaint is appropriate for service by the United States Marshal without pre-payment of  
15 costs. If plaintiff desires service of process by the United States Marshal without pre-payment of  
16 costs, plaintiff must comply with the requirements outlined below. Plaintiff is warned that  
17 failure to comply with this order, or otherwise effect service pursuant to Federal Rule of Civil  
18 Procedure 4, may result in dismissal of the action for lack of prosecution and failure to comply  
19 with court rules and orders. See Local Rule 110.

20           Accordingly, IT IS HEREBY ORDERED that:

- 21           1. Plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) is  
22 granted;
- 23           2. The Clerk of the Court shall issue a summons in a civil case, the  
24 undersigned's new case documents, and an order setting this matter for an initial scheduling  
25 conference;

26 ///

1           3.       The Clerk of the Court shall send plaintiff the summons, three USM-285  
2 forms, and a copy of the complaint;

3           4.       Within 15 days from the date of this order, plaintiff shall complete the  
4 summons by indicating the addresses of the named defendants and shall submit to the United  
5 States Marshal at the address indicated below the following documents:

- 6                   a.       The completed summons;
- 7                   b.       One completed USM-285 form for each named defendant;
- 8                   c.       Four copies of the complaint; and
- 9                   d.       Three copies of the court's initial scheduling conference order  
10                   issued herewith;

11           5.       Within 20 days of the date of this order, plaintiff shall file a notice  
12 indicating that the documents described above have been submitted to the United States Marshal,  
13 or a notice that plaintiff intends to serve the summons and complaint without assistance from the  
14 United States Marshal;

15           6.       If plaintiff seeks the assistance of the United States Marshal, the United  
16 States Marshal is directed to serve all process without pre-payment of costs not later than 60 days  
17 from the date of this order, such service of process to be completed by serving a copy of the  
18 summons, complaint, and initial scheduling conference order on the defendants at the addresses  
19 provided by plaintiff; and

20           7.       The Clerk of the Court is directed to serve a copy of this order on the  
21 United States Marshal at 501 "I" Street, Sacramento, CA, 95814.

22  
23 DATED: July 11, 2018

24   
25 **CRAIG M. KELLISON**  
26 UNITED STATES MAGISTRATE JUDGE