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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

REGINALD SMITH,

No. C 05-2541 WHA (PR)

Plaintiff,

ORDER OF SERVICE

v.

Sergeant ADAM, Nurse BANTA, Dr.
 QUAN, Dr. FRIEDMAN, Dr. H.
 AUNG, Warden G. E. HARRIS, Dr.
 W. JACKSON, Dr. GREWAL, Dr.
 FRIEDERICHS, Dr. KRISHNA, and
 SSA ALLISON BRAGER, all at the
 Correctional Training Facility; Dr.
 PAPPENFUS, Dr. YEN, Nurse
 RODRIGUEZ, and Warden M.
 POWERS, all at Avenal State Prison,

Defendants.

Plaintiff, an inmate at San Quentin State Prison, filed this pro se civil rights complaint under 42 U.S.C. § 1983. The case was dismissed, and the Ninth Circuit reversed in part, affirmed in part, and remanded with instructions to serve the original complaint upon defendant Sergeant Adam. Accordingly, it is hereby ordered as follows:

1. The clerk shall issue summons and the United States Marshal shall serve, without prepayment of fees, a copy of the original complaint (docket number 1), the order of dismissal with leave to amend (docket number 10), the Ninth Circuit's order on appeal (docket number 34), and this order upon defendant SERGEANT ADAM at the CORRECTIONAL TRAINING FACILITY in SOLEDAD, CALIFORNIA. A courtesy copy of the complaint and this order

1 shall also be mailed to the California Attorney General.

2 2. In order to expedite the resolution of this case, the court orders as follows:

3 a. No later than ninety days from the date this order is filed, defendants shall file
4 a motion for summary judgment or other dispositive motion. If defendants are of the opinion
5 that this case cannot be resolved by summary judgment, they shall so inform the court prior to
6 the date the summary judgment motion is due. All papers filed with the court shall be promptly
7 served on the plaintiff.

8 b. Plaintiff's opposition to the dispositive motion, if any, shall be filed with the
9 court and served upon defendants no later than thirty days from the date of service of the
10 motion. Plaintiff must read the attached page headed "NOTICE -- WARNING," which is
11 provided to him pursuant to *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc),
12 and *Klinge v. Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988).

13 If defendants file an unenumerated motion to dismiss claiming that plaintiff failed to
14 exhaust his available administrative remedies as required by 42 U.S.C. § 1997e(a), plaintiff
15 should take note of the attached page headed "NOTICE -- WARNING (EXHAUSTION)," which is
16 provided to him as required by *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir.),
17 *cert. denied*, *Alameida v. Wyatt*, 124 S.Ct 50 (2003).

18 c. Defendants **shall** file a reply brief no later than fifteen days after the date of
19 service of the opposition.

20 d. The motion shall be deemed submitted as of the date the reply brief is due.
21 No hearing will be held on the motion unless the court so orders at a later date.

22 3. All communications by the plaintiff with the court must be served on defendant, or
23 defendant's counsel once counsel has been designated, by mailing a true copy of the document
24 to defendant or defendant's counsel.

25 4. Discovery may be taken in accordance with the Federal Rules of Civil Procedure.
26 No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local Rule 16-1 is
27 required before the parties may conduct discovery.


28 5. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the court

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informed of any change of address and must comply with the court's orders in a timely fashion.
Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to
Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

Dated: April 21, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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NOTICE -- WARNING
(SUMMARY JUDGMENT)

If defendants move for summary judgment, they are seeking to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact--that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.

NOTICE -- WARNING
(EXHAUSTION)

If defendants file an unenumerated motion to dismiss for failure to exhaust, they are seeking to have your case dismissed. If the motion is granted it will end your case.

You have the right to present any evidence you may have which tends to show that you did exhaust your administrative remedies. Such evidence may be in the form of declarations (statements signed under penalty of perjury) or authenticated documents, that is, documents accompanied by a declaration showing where they came from and why they are authentic, or other sworn papers, such as answers to interrogatories or depositions.

If defendants file a motion to dismiss and it is granted, your case will be dismissed and there will be no trial.