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

BOBBY GENE GLOVER,	)	No. C 07-1759 JSW (PR)
	)	
Plaintiff,	)	
	)	<b>ORDER SCHEDULING DISPOSITIVE</b>
v.	)	<b>MOTION(S)</b>
	)	
M. S. EVANS, Warden, E. B.	)	
JONES, Warden, M. HILL,	)	
ROXANNE LESNIAK, GAYLE	)	
JANSEN, Accountants,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff, a prisoner of the State of California, filed this pro se civil rights action pursuant to 42 U.S.C. § 1983. Defendants’ motion to dismiss the complaint for lack for exhaustion was granted, and Plaintiff appealed. The United States Court of Appeals reversed and remanded this Court’s judgment, noting that their decision was based upon the law announced in their recent opinion in *Harvey v. Jordan*, 605 F.3d 681 (9th Cir. 2010). In light of the judgment and mandate of the Ninth Circuit, the Court hereby orders as follows:

1. No later than **ninety (90) days** from the date this order is filed, Defendants shall either file a motion for summary judgment or other dispositive motion, or a notice to the Court that they are of the opinion that this matter cannot be resolved by dispositive motion. The motion shall be supported by adequate factual documentation and shall conform in all respects to Federal Rule of Civil Procedure 56.

1           **Defendants are advised that summary judgment cannot be granted, nor**  
2           **qualified immunity found, if material facts are in dispute. If defendants are of the**  
3           **opinion that this case cannot be resolved by summary judgment, they shall so inform**  
4           **the Court prior to the date the summary judgment motion is due.**

5           All papers filed with the Court shall be promptly served on the Plaintiff.

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

11          If defendants file an unenumerated motion to dismiss claiming that plaintiff failed  
12          to exhaust his available administrative remedies as required by 42 U.S.C. § 1997e(a),  
13          plaintiff should take note of the attached page headed "NOTICE -- WARNING  
14          (EXHAUSTION)." See *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003)

15          3. Defendants shall file a reply brief no later than **fifteen (15) days** after Plaintiff's  
16          opposition is filed.

17          4. The motion shall be deemed submitted as of the date the reply brief is due. No  
18          hearing will be held on the motion unless the Court so orders at a later date.

19          5. Discovery may be taken in accordance with the Federal Rules of Civil  
20          Procedure. No further Court order under Federal Rule of Civil Procedure 30(a)(2) or  
21          Local Rule 16 is required before the parties may conduct discovery.

22          6. Extensions of time are not favored, though reasonable extensions will be  
23          granted. Any motion for an extension of time must be filed no later than **five** days prior to  
24          the deadline sought to be extended.

25          7. All communications by Plaintiff with the Court must be served on Defendant, or  
26          Defendant's counsel once counsel has been designated, by mailing a true copy of the  
27          document to Defendant or Defendant's counsel.

28          8. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the

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

4 IT IS SO ORDERED.

5 DATED: May 6, 2011

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JEFFREY S. WHITE  
8 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 BOBBY GENE GLOVER JR,  
6 Plaintiff,

Case Number: CV07-01759 JSW

**CERTIFICATE OF SERVICE**

7 v.

8 / et al,

9 Defendant.  
10 \_\_\_\_\_/

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
12 Court, Northern District of California.

13 That on May 6, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
15 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
16 receptacle located in the Clerk's office.

17 Bobby Gene Glover  
18 K46066  
19 PVSP  
20 P.O. Box 8504  
21 Coalinga, CA 93210

22 Dated: May 6, 2011



Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk

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