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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LYNNARD SMITH,

Plaintiff,

v.

STEVEN G. DAVIS,

Defendants.

No. C 07-4089 JSW (PR)


**ORDER SCHEDULING BRIEFING;
REOPENING CASE**

This is a federal civil rights action filed by a state prisoner pursuant to 42 U.S.C. § 1983. Defendants' motion to dismiss the complaint for lack of exhaustion was granted, and the case was dismissed without prejudice. On appeal, the United States Court of Appeals for the Ninth Circuit ruled that it is "in doubt as to exhaustion," and accordingly vacated the judgment and remanded the case to this court with instructions "to reexamine whether Smith properly exhausted his retaliation claim." The parties are directed to address this issue as follows:

Within **30 days** of the date this order is filed, Defendants **shall** file a supplemental memorandum of points and authorities in support of their motion to dismiss addressing whether, in light of the Ninth Circuit's opinion, Plaintiff has exhausted his retaliation claim. Within **30 days** of the date the supplemental memorandum is filed, Plaintiff may file a supplemental opposition addressing the same issue. Defendants **shall** file a reply brief within 14 days of the date any supplemental opposition is filed.

IT IS SO ORDERED.

DATED: April 9, 2012



JEFFREY S. WHITE
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LYNNARD A. SMITH,
Plaintiff,

Case Number: CV07-04089 JSW
CERTIFICATE OF SERVICE

v.


STEVEN G. DAVIS et al,
Defendant.

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

That on April 9, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lynnard A. Smith
D89280
CSP Solano
P.O. Box 4000
Vacaville, CA 95696

Dated: April 9, 2012


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