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

GUADALUPE RAMIREZ,
Plaintiff,

No. C 08-3766 WHA (PR)

ORDER OF SERVICE

v.

MD N. DAYALAN; MD SINNACO;
and RN M. NADEY,
Defendants.

_____ /

This is a civil rights case filed pro se by a state prisoner. In the initial review order several claims were found to be sufficient to proceed, but some others were dismissed with leave to amend. Plaintiff has informed the court that he wishes to proceed with only the cognizable issues.

CONCLUSION

1. Plaintiff’s claims that defendants Dayalan and Sinnaco failed to provide sufficient items for “self-cleanliness” and his claims against defendant Nadey are **DISMISSED** with prejudice.

2. The clerk shall issue summons and the United States Marshal shall serve, without prepayment of fees, copies of the complaint in this matter and copies of this order upon the following defendants: N. Dayalan, MD, and Sinnaco, MD. Plaintiff states that these defendants can be found at: Salinas Valley State Prison.

United States District Court
For the Northern District of California

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

2 a. No later than sixty days from the date of service, defendants shall file a
3 motion for summary judgment or other dispositive motion. The motion shall be supported by
4 adequate factual documentation and shall conform in all respects to Federal Rule of Civil
5 Procedure 56, and shall include as exhibits all records and incident reports stemming from the
6 events at issue. If defendants are of the opinion that this case cannot be resolved by summary
7 judgment, they shall so inform the court prior to the date their summary judgment motion is
8 due. All papers filed with the court shall be promptly served on the plaintiff.

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

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

19 c. If defendants wish to file a reply brief, they shall do so no later than fifteen
20 days after the date of service of the opposition.

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

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

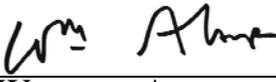
26 5. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the court
27 informed of any change of address by filing a separate paper with the clerk headed "Notice of
28 Change of Address." He also must comply with the court's orders in a timely fashion. Failure

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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: May 12, 2009.



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.