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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIE BOLDEN,
Plaintiff,
v.
O. ARANA,
Defendant.

Case No. [17-cv-05607-PJH](#)

ORDER

This is a civil rights case brought pro se by a state prisoner under 42 U.S.C. § 1983. Defendant has filed a motion for summary judgment and plaintiff filed an opposition. The court previously stayed discovery and denied plaintiff’s motion to compel without prejudice because it was not relevant to the issue raised in the summary judgment motion with respect to defendant.

Plaintiff alleges that defendant Arana searched his cell and confiscated several items. Plaintiff stated he would file an administrative grievance if the items were not returned and he alleges that defendant responded, “I’ll get you for that.” Plaintiff states that he was found not guilty at a disciplinary hearing, but defendant had the verdict changed to guilty in retaliation for plaintiff’s grievance.

Defendant argues that he did not perform any cell search of plaintiff’s cell, does not know plaintiff, and was not working in that housing block in the prison for the entire month when the incident occurred. Defendant contends that his name was erroneously placed in a prison report identifying him as the correctional officer at issue. The prison official who prepared the report confirms it was a mistake. However, the prison official who prepared the report has failed to identify the appropriate correctional officer, nor has

1 defendant or prison officials identified the appropriate correctional officer or issued an
2 amended report. In his opposition to summary judgment plaintiff indicates that if he was
3 provided the correct correctional officer he would have amended the complaint.

4 After reviewing the relevant filings in this case and in the motion for summary
5 judgment, it is clear that this is not a situation where plaintiff chose a correctional officer's
6 name at random to commence this lawsuit. Plaintiff relied on the prison report prepared
7 by prison officials and named the correctional officer who was erroneously identified in
8 the report. The court notes that plaintiff is proceeding pro se in this action and has
9 already attempted to obtain this information but has been unsuccessful. It is well settled
10 that federal courts must construe pro se filings liberally. See *Hughes v. Rowe*, 449 U.S.
11 5, 9 (1980); *Hearns v. Terhune*, 413 F.3d 1036, 1040 (9th Cir. 2005).

12 Therefore, within **twenty-one days** of service of this order, defendant shall insure
13 that the correct identity of the correctional officer involved in this incident whose actions
14 were incorrectly assigned to defendant Arana in the prison report (Docket No. 23 at Ex.
15 A4-A7) be provided to plaintiff and the court. Once this information is provided, plaintiff
16 will be provided an opportunity to amend his complaint and the court will rule on the
17 summary judgment motion against defendant Arana. Discovery remains stayed for all
18 other issues except for the identity of the correctional officer discussed above.

19 **IT IS SO ORDERED.**

20 Dated: September 13, 2018

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PHYLLIS J. HAMILTON
United States District Judge

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 WILLIE BOLDEN,
4 Plaintiff,

5 v.

6 O. ARANA,
7 Defendant.
8

Case No. [17-cv-05607-PJH](#)

CERTIFICATE OF SERVICE


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

11
12 That on September 13, 2018, I SERVED a true and correct copy(ies) of the attached, by
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
15 receptacle located in the Clerk's office.
16

17 Willie Bolden ID: E-94314
18 San Quentin State Prison
19 1 Main Street
20 San Quentin, CA 94964

21 Dated: September 13, 2018

22
23 Susan Y. Soong
24 Clerk, United States District Court

25
26 By: 
27 Kelly Collins, Deputy Clerk to the
28 Honorable PHYLLIS J. HAMILTON