UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES WUNDERLICH,

Plaintiff,

v.

DR. ALLRED,

Defendant.

No. 2:24-cv-1847 TLN CKD P

ORDER

Plaintiff is a federal prisoner proceeding pro se with a civil action. He requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of $350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account exceeds $10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The

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court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

After conducting the required screening, the court finds that plaintiff may proceed on a claim for denial of medical care arising under the Eighth Amendment and a claim for negligence pursuant to the Federal Tort Claims Act against defendant Dr. Allred. Accordingly, the court will order service of process.[1]

In accordance with the above, IT IS HEREBY ORDERED that:

1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 7) is granted.

2. Plaintiff is obligated to pay the statutory filing fee of $350.00 for this action. Plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the Federal Bureau of Prisons.

3. Service is appropriate for defendant Allred.

4. The Clerk of the Court shall send plaintiff a USM-285 form, one summons, an instruction sheet and a copy of the complaint.

5. Within thirty days from the date of this order, plaintiff shall complete the attached Notice of Submission of Documents and submit the following documents to the court:

a. The completed Notice of Submission of Documents;

b. One completed summons;

c. One completed USM-285 form; and

d. Two copies of the complaint.

6. Plaintiff need not attempt service on defendant and need not request waiver of service. Upon receipt of the above-described documents, the court will direct the United States Marshal to

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[1] At the top of the complaint, plaintiff identifies the United States of America (USA) as a defendant. However, in the complaint itself, plaintiff makes no allegations against the USA so the USA is not properly identified as a defendant.

serve the above-named defendant pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

7. The court's August 30, 2024, findings and recommendations are vacated.

Dated: September 27, 2024

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES WUNDERLICH, Plaintiff, v. DR. ALLRED, Defendant.	No. 2:24-01847 TLN CKD P NOTICE OF SUBMISSION OF DOCUMENTS

Plaintiff submits the following documents in compliance with the court's order filed _____:

____ completed summons form

____ completed USM-285 forms

____ copies of the _____
Complaint

DATED:

_____
Plaintiff