



(PC) Perez v. Padilla

2015 | Cited 0 times | E.D. California | October 5, 2015

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

JOSEPH PEREZ, Plaintiff, vs. R. PADILLA, Defendant.

1:14-cv-01730-GSA (PC) ORDER DENYING MOTION FOR IMMEDIATE INITIATION OF SERVICE (ECF No. 17.)

I. BACKGROUND

Joseph Perez (APlaintiff@) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action filed pursuant to 42 U.S.C. ' 1983. Plaintiff filed the Complaint commencing this action on November 6, 2014. (ECF No. 1.) On November 6, 2014, Plaintiff consented to Magistrate Judge jurisdiction in this action pursuant to 28 U.S.C. ' 636(c), and no other parties have made an appearance. (ECF No. 3.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall conduct any and all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

dismissing the Complaint for failure to state a claim, with leave to amend. (ECF No. 9.) On 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

screening. (ECF No. 12.)

On September 18, 2015, Plaintiff filed a motion for the court to initiate service of process upon defendant R. Padilla. (ECF No. 17.)

II. SCREENING AND SERVICE OF PROCESS

The court is required by law to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity, such as the instant action brought pursuant to 42 U.S.C. ' 1983. 28 U.S.C. ' 1915A(a). The 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).



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With respect to service, the court will, sua sponte, direct the United States Marshal to serve the complaint only after the court has screened the complaint and determined that it contains cognizable claims for relief against the named defendant.

Plaintiff requests the court to initiate service of process upon defendant R. Padilla in this action. herefore, it is not yet time for service in this action. III. CONCLUSION

Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff=s motion for immediate initiation of service of process, filed on September 18, 2015, is DENIED.

IT IS SO ORDERED. Dated: October 5, 2015 /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE

