

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No. EDCV 11-0613-DSF (JEM) Date April 2, 2012

Title Tremaine Ulysses Smiler v. Deputy Powers, et al.

Present: The Honorable John E. McDermott, United States Magistrate Judge

S. Anthony

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

**Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE:  
DISMISSAL FOR FAILURE TO PROSECUTE**

Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983, in which he seeks to recover damages for Defendants' alleged failure to protect Plaintiff from harm while he was in Defendants' custody.

On January 31, 2011, the Complaint was served on Defendants Powers, Brenes, Hoops, Boldt, and Cefalu. On February 17, 2012, Defendants filed an Answer to the Complaint and served Plaintiff with a copy at his address of record, which is 4144 N. 3rd St. #B, San Bernardino, CA 92407.

On February 21, 2012, Defendants served Plaintiff with discovery at his address of record, including Request for Special Interrogatories, Set One, Request for Admission, Set One, and Request for Production of Documents, Set One.

The Answer to the Complaint was returned to Defendants' counsel on March 1, 2012, with a note stating, "Return to Sender Not Deliverable as Addressed Unable to Forward." The discovery propounded on Plaintiff was returned to Defendants' counsel on March 1, 2012, with a note stating, "Attempted, Not Known."

On March 2, 2012, Defendants filed a Notice of Returned Mail reflecting these unsuccessful attempts to serve Plaintiff with the Answer and discovery.

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Plaintiff has not filed a change of address notifying the Court or Defendants of a new address. Local Rule 41-6 requires Plaintiff, *inter alia*, to keep the Court and opposing parties apprised of his current address.

On March 29, 2012, Defendants filed a Request for Dismissal for Failure to Prosecute Pursuant to Fed. R. Civ. P. 41(b) ("Request"). Defendants argue that this case should be dismissed because Plaintiff has failed to keep the Court and Defendants apprised of his current address or prosecute this matter diligently.

In light of the foregoing, Plaintiff is **ORDERED TO SHOW CAUSE** why this case should not be dismissed for failure to prosecute. Plaintiff shall file a written response to this Order to Show Cause no later than **April 16, 2012**. Plaintiff's failure to respond in writing to the Order to Show Cause by the deadline shall result in a recommendation that this action be dismissed for failure to prosecute pursuant to Local Rule 41-6.

If Plaintiff files a response to the Order to Show Cause, Defendants may file a reply within 7 days of Plaintiff's filing.

No extensions of these deadlines will be granted absent extraordinary circumstances.

**IT IS SO ORDERED.**

Initials of Preparer

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