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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODERICK WASHINGTON,

1:03-cv-05263-LJO-SMS-PC

Plaintiff,

ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO EFFECT SERVICE

v.

RICHARD E. EARLY, et al.,

RESPONSE FROM PLAINTIFF DUE IN
THIRTY DAYS

Defendants.

I. BACKGROUND

Roderick Washington (“plaintiff”) is a prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint initiating this action on March 3, 2003. (Doc. 1.) This action now proceeds on the second amended complaint, filed May 12, 2006, against defendants R. Lamanco, Richard Early, and Pastor ("Defendants"), on plaintiff's First Amendment Freedom of Speech claim.¹ (Doc. 63.)

On April 7, 2009, the Court granted Plaintiff's motion for the United States Marshal to serve process in this action and forwarded documents to Plaintiff for completion and return to the Court. (Doc. 112.) Plaintiff timely submitted the completed documents, and on April 15, 2009, the Court issued an order directing the United States Marshal to serve process upon Defendants.

¹All other claims and defendants were dismissed by the court on June 2, 2008. (Docs. 77, 84.)

1 (Doc. 113.) On June 25, 2009, the Marshal filed three returns of service unexecuted as to
2 defendants Lamanco, Early and Pastor. (Doc. 116.) The Marshal indicated on the return for
3 defendant Richard Early that Early is "not employed" and is "not in [the] CDC Locator database."
4 The Marshal indicated on the return for defendant Pastor, "none employed per lit[igation]
5 co[ordinator]" and "none in CDC locator." The Marshal indicated on the return for defendant
6 Lamanco, "per facility - none" and "per CDC locator - none." Therefore, none of the three
7 defendants in this action has been successfully served.

8 **II. ORDER TO SHOW CAUSE**

9 Within thirty days from the date of service of this order, pursuant to Federal Rule of Civil
10 Procedure 4(m), plaintiff shall show cause why this action should not be dismissed for failure to
11 successfully serve any of the three defendants in this action.

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

- 13 1. Within thirty days from the date of service of this order, plaintiff shall file a
14 written response to the court, showing cause why this action should not be
15 dismissed based on the failure to successfully serve any of the defendants in this
16 action; and
- 17 2. Plaintiff's failure to comply with this order shall result in a recommendation that
18 this action be dismissed.

19
20 IT IS SO ORDERED.

21 Dated: July 10, 2009

/s/ Sandra M. Snyder

UNITED STATES MAGISTRATE JUDGE