

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GUST MARION JANIS,

CASE NO. 1:04-cv-05812-SMS PC

Plaintiff,

ORDER REQUIRING PLAINTIFF TO
FURNISH FURTHER INFORMATION FOR
INITIATION OF SERVICE OF PROCESS

v.

UNITED STATES OF AMERICA, et al.,

RESPONSE DUE WITHIN THIRTY DAYS

Defendants.
_____ /

Plaintiff Gust Marion Janis ("Plaintiff") is a federal prisoner proceeding pro se in this civil action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), which provides a remedy for violation of civil rights by federal actors, and pursuant to 28 U.S.C. § 1346(b) (the Federal Tort Claims Act), which provides a limited remedy for torts committed by federal employees. Plaintiff filed the original Complaint in this action on June 10, 2004. Now pending before the Court is Plaintiff's Fourth Amended Complaint, filed January 18, 2008.

Pursuant to U.S.C. § 1915A, the Court screened Plaintiff's Fourth Amended Complaint in conjunction with the limiting instructions set forth in the Court's order of May 11, 2007, and found that it states a cognizable claim for relief under the Federal Tort Claims Act against the United States, Fed. R. Civ. P. 8(a). In the Fourth Amended Complaint, Plaintiff named two Defendants with the same surname – "R. Johnson" and "Johnson."

Service was found appropriate and the United States Marshal was ordered to initiate service of process on April 4, 2008. (Doc. 58.) While summonses (both executed and unexecuted) for a

1 number of Defendants have been filed, none has been returned as to Defendant "Johnson." The
2 United States Attorney's Office has advised that they are representing Defendant "R. Johnson," but
3 that their searches have indicated that no other prison personnel with the surname of "Johnson" were
4 involved in Plaintiff's incarceration during the dates in question, and that absent further identifying
5 information, their belief is that any mention to a defendant with the surname of "Johnson" in the
6 Fourth Amended Complaint is intended to reference Defendant "R. Johnson."

7 Accordingly, if Plaintiff intended to name a Defendant with the surname of "Johnson,"
8 separate and apart from Defendant "R. Johnson," within thirty days from the date of service of this
9 order, Plaintiff shall provide the Court with further information to in identifying Defendant
10 "Johnson." If Plaintiff can remember any details that might identify Defendant "Johnson," Plaintiff
11 shall so inform the Court. For example, what title and/or rank was Defendant "Johnson?" What area
12 of the prison did Defendant "Johnson" work on the date(s) in question? What hours did Defendant
13 "Johnson" work on the date(s) in question? Can Plaintiff recall any physical attributes of Defendant
14 "Johnson," such as age, gender, hair color, eye color, height, weight, and the like? Does Plaintiff
15 remember anything that might differentiate Defendant "Johnson" from Defendant "R. Johnson?"
16 If Plaintiff has any documents bearing the signature of Defendant "Johnson," he is directed to submit
17 copies thereof to the Court.

18 Likewise, Plaintiff shall advise the Court within thirty days from the date of service of this
19 order if Plaintiff intended all references in the Fourth Amended Complaint to any Defendant by the
20 surname of "Johnson" to implicate Defendant "R. Johnson."

21 Based on the foregoing, it is HEREBY ORDERED that within thirty (30) days from the date
22 of service of this order, Plaintiff shall provide the Court with any and all information he has that
23 might help identify Defendant "Johnson," or alternatively advise the Court if Plaintiff intended all
24 references, in the Fourth Amended Complaint, to a Defendant by the surname of "Johnson" to
25 implicate Defendant "R. Johnson."

26 IT IS SO ORDERED.

27 **Dated: June 21, 2010**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE