

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANK E. SISNEROZ,

1:05-cv-00519-AWI-GSA-PC

Plaintiff,

ORDER EXCUSING DEFENDANT TULARE
COUNTY MENTAL HEALTH SERVICES
FROM RESPONDING TO PLAINTIFF'S
MOTION TO DISMISS PURSUANT TO THE
COURT'S ORDER OF OCTOBER 20, 2011
(Doc. 70.)

v.

WHITMAN, et al.,

Defendants.

_____ /

Frank E. Sisneroz ("Plaintiff") is a civil detainee proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action now proceeds on the Second Amended Complaint filed on May 12, 2008 and the Supplemental Complaint filed on June 1, 2009, against defendants Bill Whitman, the County of Tulare, Thomas F. Johnson, and Tulare County Mental Health Services. (Docs. 34, 47.) On October 17, 2011, Plaintiff filed a motion to dismiss defendant Johnson from this action. (Doc. 68.)

On October 20, 2011, the Court entered an order requiring defendant Tulare County Mental Health Services ("TCMHS") to respond to Plaintiff's motion to dismiss within thirty days. (Doc. 70.) In requiring TCMHS to respond, the Court relied on Rule 41's requirement for a stipulation of dismissal before defendant Johnson could be dismissed from this action. Fed. R. Civ. P. 41. The Court now finds that Plaintiff's motion to dismiss is more properly based on failure to serve process under Rule 4, for which a stipulation is not required. Therefore, IT IS

///

1 HEREBY ORDERED that defendant Tulare County Mental Health Services is excused from
2 responding to Plaintiff's motion to dismiss pursuant to the Court's order of October 20, 2011.

3
4 IT IS SO ORDERED.

5 Dated: November 15, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28