

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

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

PHILLIP JON ROSENBLUM,		NO. 1:05-cv-01473-LJO-GSA-PC
	)	ORDER DIRECTING U.S.
Plaintiff,	)	MARSHAL TO RETURN SERVICE
	)	
v.	)	RETURN OF SERVICE DUE IN
C/O ELLIS,	)	SIXTY DAYS
	)	
Defendant.	)	

---

Plaintiff is a state prisoner proceeding pro se in this civil rights action. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

**I. Procedural History**

On July 31, 2008, an order was entered, finding that the complaint stated a claim against Defendant Ellis, but failed to state any claims against any of the other named defendants. Plaintiff was granted leave to file an amended complaint to correct the deficiencies that the order identified. Despite an extension of time, Plaintiff did not file an amended complaint. On September 22, 2008, Plaintiff filed a notice and request to proceed on the claims found to be cognizable. Plaintiff specifically indicated that he “wishes to proceed only the claims identified by the court, as being unto C.O. Ellis.” The Court recommended dismissal of the remaining claims and defendants. Plaintiff objected, and the Court granted Plaintiff further leave to amend.

1 On July 10, 2010, Plaintiff filed a first amended complaint. The Court again recommended that  
2 this action proceed against Defendant Ellis only, and the remaining claims and defendants be  
3 dismissed. On October 28, 2010, the District Court entered an order, adopting the findings and  
4 recommendations of the Magistrate Judge, dismissing the remaining claims and defendants. This  
5 action therefore proceeds against Defendant Ellis on Plaintiff's failure to protect claim.

6 **II. Service**

7 Service was initially ordered upon Defendant Ellis in 2009. On March 5, 2009, an order  
8 was entered, directing service of the operative pleading upon Defendant C/O Ellis. On April 29,  
9 2009, the USM 285 form for service upon C/O Ellis was returned as unexecuted. The form  
10 indicated that there are "several ellis" in the database. On June 17, 2009, an order was entered,  
11 advising Plaintiff that he must provide the Court with further information to assist the Marshal in  
12 serving C/O Ellis. On June 30, 2009, Plaintiff filed a document titled as "Notice/Information  
13 Provided to Assist With Service of Defendant by Phillip Jon Rosenblum." This notice contains  
14 information regarding where C/O Ellis was employed.

15 Accordingly, IT IS HEREBY ORDERED that:

16 1. The Clerk's Office shall forward to the U.S. Marshal Plaintiff's June 30, 2009, notice  
17 along with a copy of the USM 285 form submitted by Plaintiff on March 3, 2009.

18 2. The U.S. Marshal is directed to return to the Court, within sixty days, a return of  
19 service regarding C/O Ellis.

20  
21  
22 IT IS SO ORDERED.

23 **Dated: October 29, 2010**

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE