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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ROBERT P. BENYAMINI,

1:06-cv-01096-AWI-GSA-PC

Plaintiff,

ORDER REQUIRING PLAINTIFF TO SHOW  
CAUSE WHY DEFENDANT MANJUANO  
SHOULD NOT BE DISMISSED FROM THIS  
ACTION FOR PLAINTIFF'S FAILURE TO  
PROSECUTE AGAINST HER

v.

MANJUANO, et al.,

Defendants.

THIRTY DAY DEADLINE

**I. RELEVANT PROCEDURAL HISTORY**

Robert P. Benyamini ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on August 21, 2006. (Doc. 1.) This action now proceeds with the Third Amended Complaint, filed on May 3, 2008, on Plaintiff's Eighth Amendment claims for adverse conditions of confinement against defendants Debbie Manjuano, Deputy Wilcox, Deputy Wilkerson, and Deputy O'Grady. (Doc. 35.) On September 17, 2009, the Court issued an order directing the United States Marshal to serve process in this action upon Defendants Wilkerson, Manjuano, Wilcox, and O'Grady. (Doc. 58.) On May 21, 2010, the Court received a USM-285 form from the Marshal indicating that personal service was effected upon Defendant Manjuano on May 11, 2010, giving Defendant Manjuano twenty-one days in which to file an answer or motion under Rule 12 in response to Plaintiff's complaint. (Doc. 65 at 2.) More than seven months have

1 passed, and Defendant Manjuano has not filed an answer, a motion under Rule 12, or any other  
2 response to Plaintiff's complaint. (See Court Docket.) Plaintiff has not filed a motion under  
3 Rule 55. Id.

4 **II. ORDER TO SHOW CAUSE**

5 Within thirty days from the date of service of this order, Plaintiff shall show cause why  
6 Defendant Manjuano should not be dismissed from this action for Plaintiff's failure to prosecute  
7 against her.

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

- 9 1. Within thirty days from the date of service of this order, Plaintiff shall file a  
10 written response to the Court, showing cause why Defendant Debbie Manjuano  
11 should not be dismissed from this action for Plaintiff's failure to prosecute against  
12 her; and
- 13 2. Plaintiff's failure to comply with this order shall result a recommendation that this  
14 action be dismissed.

15  
16 IT IS SO ORDERED.

17 **Dated: December 15, 2010**

17 /s/ Gary S. Austin  
18 UNITED STATES MAGISTRATE JUDGE