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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MELVIN WINCE,

1:06-cv-01387-AWI-SMS-PC

Plaintiff,

v.

ORDER TO SHOW CAUSE WHY
DEFENDANT CARRIE ARMSTRENY
SHOULD NOT BE DISMISSED FROM THIS
ACTION

ISMAIL, et al.,

Defendants.

RESPONSE FROM PLAINTIFF DUE IN
THIRTY DAYS

_____ /

Melvin Wince (“plaintiff”) is a former state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on October 10, 2006 against defendants Dr. Patel Ismail and Carry Armstreney.

On September 12, 2008, the court forwarded documents to plaintiff with instructions to complete and return them to the court for service of process on defendants Ismail and Armstreney. (Doc. 10.) Plaintiff returned the completed documents on October 24, 2008, and on October 30, 2008, the court directed the United States Marshal to initiate service of process on defendants Ismail and Armstreney. (Docs. 11, 12.) On February 24, 2009, the Marshal filed a Waiver of Service signed by defendant Ismail. (Doc. 14.) On March 17, 2009, defendant Ismail filed an answer to the complaint. (Doc. 15.)

///

1 On April 13, 2009, the Marshal filed a return of service unexecuted as to defendant Carrie
2 Armstreney, with the notations:

3 Mailed 11/10/08. 12/01/08 fwd. 2/20/09 Fresno personal service. 2/26/09 -
4 Attempted to locate Armstrong @ 3604 McKee Rd., Bfield. This res belongs to
5 parents, uncoop, did not provide info on how to contact Armstrong. Unable to
locate Armstrong @ 1001 Oleander. Per apt mgr, she moved out Nov 2007, no
forwarding address available.¹

6 (Doc. 17.)

7 Due to the return of service unexecuted, plaintiff shall be ordered to show cause why
8 defendant Carrie Armstreney should not be dismissed from this action. Within thirty days,
9 plaintiff shall file a written response with the court explaining why defendant Armstreney should
10 not be dismissed. In the alternative, plaintiff may file a notice of non-opposition to the dismissal
11 of defendant Armstreney.

12 Accordingly, 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 showing cause why defendant Carrie Armstreney should not be
15 dismissed from this action;
- 16 2. In the alternative, plaintiff may file a written non-opposition to the dismissal of
17 defendant Carrie Armstreney; and
- 18 3. Plaintiff's failure to comply with this order shall result in a recommendation that
19 this action be dismissed.

20 IT IS SO ORDERED.

21 Dated: May 1, 2009 /s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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¹It appears that the Marshal identified defendant Carrie Armstreney as Carrie "Armstrong" during the course
of the attempted personal service.