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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

VINCENT C. BRUCE,

Plaintiff,

v.

JEANNE WOODFORD, et al.,

Defendants.

CASE NO. 1:07-cv-00269-AWI-SKO PC

ORDER TO SHOW CAUSE WHY DEFENDANT
SANCHEZ SHOULD NOT BE DISMISSED

RESPONSE DUE WITHIN 20 DAYS

Plaintiff Vincent C. Bruce (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On July 16, 2010, a summons was returned unexecuted as to Defendant Eddie Sanchez. (Doc. #76.) The summons indicated that Sanchez could not be located using the information provided by Plaintiff.

“[A]n incarcerated pro se plaintiff proceeding in forma pauperis is entitled to rely on the U.S. Marshal for service of the summons and complaint and . . . should not be penalized by having his action dismissed for failure to effect service where the U.S. Marshal or the court clerk has failed to perform his duties.” Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994) (quoting Puett v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990)), abrogated on other grounds by Sandin v. Connor, 515 U.S. 472 (1995). Although Plaintiff is not proceeding in forma pauperis, the Court granted Plaintiff’s request to have the U.S. Marshal effect service of process under Federal Rule of Civil Procedure 4(c)(3).

Where a pro se plaintiff fails to provide the Marshal with accurate and sufficient information to effect service of the summons and complaint, the court’s sua sponte dismissal of the unserved

1 defendants is appropriate. Id. at 1421-22. The information provided by Plaintiff was insufficient
2 to allow the U.S. Marshal to locate and serve Defendant Sanchez. There is no indication that the
3 failure to effect service was due to the U.S. Marshal's failure to perform his or her duties.

4 Accordingly, Plaintiff is HEREBY ORDERED to SHOW CAUSE within TWENTY (20)
5 days of the date of service of this order why Defendant Sanchez should not be dismissed from this
6 action for lack of service.¹

7 Plaintiff is forewarned that the failure to show cause may result in a recommendation that
8 Defendant Sanchez be dismissed from this action.

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10 IT IS SO ORDERED.

11 **Dated:** August 10, 2010

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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¹Should Plaintiff have updated information on the whereabouts of Defendant Sanchez, he should provide it
to the Court at this time.