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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL D. HARRISON,

Plaintiff,

v.

T. MOORE, et al.,

Defendants.

Case No. 1:08-cv-1065-AWI-MJS (PC)

**ORDER REJECTING FINDINGS AND
RECOMMENDATION TO DISMISS
DEFENDANTS ZAKARI, BASTIANON,
EDMONDS, AND RAYGOZA FOR
INSUFFICIENT INFORMATION TO
EFFECT SERVICE OF PROCESS (ECF
No. 232)**

**ORDER DISCHARGING MARCH 17, 2015
ORDER TO SHOW CAUSE (ECF No. 227)**

**ORDER REQUIRING DEFENDANT CDCR
TO PROVIDE FIRST, MIDDLE, AND LAST
NAMES OF CERTAIN DEFENDANTS TO
PLAINTIFF WITHIN 30 DAYS**

Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 28 U.S.C. § 1983. The action proceeds on Plaintiff's Eighth Amendment claims against numerous defendants. (ECF No. 160.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 of the United States District Court for the Eastern District of California.

1 The Magistrate Judge issued an Order to Show Cause why certain defendants
2 should not be dismissed for failure to serve process. (ECF No. 227). Plaintiff failed to
3 respond. As a result, on April 28, 2015, the Magistrate Judge issued Findings and
4 Recommendations to dismiss Defendants Zakari, Bastianon, Edmonds, and Raygoza
5 because they had not been served and all avenues to locate and serve them had been
6 exhausted. (ECF No. 232.) Plaintiff filed objections, claiming he had not received the
7 Court's second motion to show cause (ECF No. 227) why these defendants should not
8 be dismissed. Plaintiff further contends that Defendants refused to provide information
9 regarding the first and middle names and address of the above-listed unserved
10 Defendants (ECF No. 234.), despite the Magistrate Judge's order requiring Defendants
11 to provide the names of those defendants to Plaintiff (and, in the alternative, providing
12 CDCR the opportunity to articulate more concrete privacy concerns that would justify
13 disclosure of the names and addresses to the United States Marshal Service rather than
14 defendant) (ECF No. 199). That objection is well taken.

15 If Defendants failed to respond to Plaintiff's Interrogatory #3, seeking the correct
16 spelling of all defendants first and middle names, then Plaintiff would have good cause
17 to have not effected service on those defendants. In order to quickly dispose of this
18 issue, Defendant CDCR will be ordered to provide to Plaintiff the first, middle, and last
19 names of Defendants Zakari, Bastianon, Edmonds, and Raygoza within thirty days of the
20 date of this order. Proof of compliance with this order must be filed with the Clerk of the
21 Court. The Magistrate Judge noted that CDCR may object to such a disclosure as
22 implicating security concerns for prison personnel. If that is the case, Defendant CDCR
23 may submit an application for relief from this order within fourteen days of the date of this
24 order, articulating the basis of the objection and requesting authorization to submit the
25 first, middle, and last names as well as the last known address of the unserved
26 defendants to the Marshal Service.

27 Defendant CDCR may seek relief from this order if it has already complied with
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1 the Magistrate Judge's order compelling it to provide information to Defendant (or such
2 information is not within CDCR's control). If that is the case, Defendant CDCR shall
3 submit evidence to substantiate that fact within fourteen days of the date of this order.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has
5 conducted a *de novo* review of the case. Based on the foregoing, the Court finds that
6 the April 28, 2015 Findings and Recommendations cannot be adopted.

7 Accordingly, it is HEREBY ORDERED that:

- 8 1. The Court respectfully declines to adopt the findings and recommendations
9 (ECF No. 232), filed April 28, 2015;
- 10 2. Defendant CDCR is ordered to provide the first, middle, and last names of
11 Defendants Zakari, Bastianon, Edmonds, and Raygoza to Plaintiff within 30
12 days of the date of this order. Proof of compliance with this order must be filed
13 with the Clerk of the Court;
- 14 3. The order to show cause issued on March 17, 2015, is hereby discharged,
15 with the reservation that the unserved defendants will be dismissed without
16 further notice if the Court determines that Defendant CDCR did, in fact, submit
17 the first, middle, and last names of those defendants to Plaintiff in compliance
18 with the Magistrate Judge's August 19, 2014 order, compelling such
19 disclosure;
- 20 4. Plaintiff is ordered to effect service on the unserved defendants by way of the
21 Marshal Service within fourteen days of Defendant CDCR providing the names
22 of the unserved defendants, and in no event later than sixty days after the
23 date of this order.

24
25 IT IS SO ORDERED.

26 Dated: May 20, 2015

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28 SENIOR DISTRICT JUDGE