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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

8
9 ROBERTO A. SOTELO,

CASE NO. 1:08-cv-01342-LJO-SKO

10 Plaintiff,

ORDER REQUIRING PLAINTIFF TO EFFECT
SERVICE ON DEFENDANT GREEN WITHIN
SIXTY DAYS

11 v.

12 T. BIRRING, et al.,

(Docs. 87 and 105)

13 Defendants.
14 _____/

15 Plaintiff Roberto A. Sotelo, a state prisoner proceeding in forma pauperis, filed this civil
16 rights action pursuant to 42 U.S.C. § 1983 on September 10, 2008. This action is proceeding on
17 Plaintiff's second amended complaint, filed March 22, 2012, against Defendants Birring, Diep,
18 Coleman, and Green for acting with deliberate indifference to Plaintiff's medical needs, in violation
19 of the Eighth Amendment.

20 On April 4, 2012, the Court directed the United States Marshal to serve Defendant Green at
21 his address of record with the California Department of Consumer Affairs, Physician Assistant
22 Committee. 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3). Defendant Green did not waive service
23 and in attempting to effect personal service at the Missouri address, the Marshal was informed that
24 Defendant Green was not at the residence, his location was unknown, and he was possibly working
25 in Harrison, Arkansas. (Doc. 105.)

26 Given that Defendant Green holds an active physicians assistant license from the State of
27 California, the Court expresses skepticism that a full and accurate disclosure was made to the
28 Marshal on July 12, 2012. However, the Court and the Marshal can do no more at this juncture, as

1 service on Defendant Green at his known, available address was unsuccessful, Walker v. Sumner,
2 14 F.3d 1415, 1422 (9th Cir. 1994), *abrogated on other grounds by Sandin v. Connor*, 515 U.S. 472,
3 115 S.Ct. 2293 (1995), and neither the Marshal nor the Court is authorized to undertake further
4 investigation on Plaintiff's behalf, Tedder v. Odel, 890 F.2d 210, 211-12 (9th Cir. 1989).

5 The Court will grant Plaintiff sixty days within which to effect service on Defendant Green.
6 Plaintiff's counsel shall contact Sujean Park, ADR and Pro Bono Program Director, at (916) 930-
7 4278 or spark@caed.uscourts.gov to obtain preauthorization of any anticipated reasonable expenses
8 which will be incurred in locating and serving Defendant Green, including but not limited to the
9 services of a private investigator and/or process server. Should Defendant Green be located and
10 served and should there be evidence submitted that he attempted to evade service of process, the
11 Court will take appropriate action at that time.

12 Accordingly, Plaintiff is HEREBY ORDERED to effect service on Defendant Barry J. Green
13 within **sixty (60) days** from the date of service of this order, and preauthorization of anticipated
14 expenses shall be sought from Sujean Park. Fed. R. Civ. P. 4(m).

15
16 IT IS SO ORDERED.

17 **Dated: August 1, 2012**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE