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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY TATE,

Plaintiff,

vs.

MATTHEW CATE, et al.,

Defendants.

Case No. 1:09-cv-00770 JLT (PC)

ORDER DENYING PLAINTIFF’S REQUEST
FOR RE-SERVICE OF PROCESS

(Doc. 38)

_____ /

On April 18, 2011, Plaintiff filed a request to serve process on Defendant Villasayne for a second time. Plaintiff’s request comes after the United States Marshal notified the Court that the summons for Defendant Villasayne had been returned unexecuted. (Doc. 28.) The Court, however, has already addressed this issue. By order filed February 22, 2011, the Court directed the United States Marshal to initiate re-service of process on Defendant Villasayne by contacting the Legal Affairs Division of the California Department of Corrections and Rehabilitation.¹ (Doc. 29.)

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff’s April 18, 2011 request for re-service of process on Defendant Villasayne (Doc. 38) is **DENIED AS MOOT**.

IT IS SO ORDERED.

Dated: April 20, 2011

/s/ Jennifer L. Thurston

¹ Once service is effectuated, Defendant Villasayne has at least sixty days to respond to the complaint if he waived service, or twenty-one days to respond if he was personally served. See Fed. R. Civ. P. 12(a).

UNITED STATES MAGISTRATE JUDGE

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