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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JOHN R. MARTINEZ,

CASE NO. 1:10-cv-01501-SKO PC

Plaintiff,

ORDER DIRECTING PLAINTIFF TO SUBMIT  
PRISON RECORD BEARING DEFENDANT  
MATTHEWS' NAME

v.

JAMES TILTON, et al.,

(Doc. 26)

Defendants.

THIRTY-DAY DEADLINE

Plaintiff John R. Martinez filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 19, 2010. This action is proceeding against Defendants Adams, Dicks, Hubach, Jennings, Payne, Rickman, and Matthews for allegedly violating Plaintiff's rights while he was incarcerated at California State Prison-Corcoran. Defendants Adams, Dicks, Hubach, Jennings, Payne, and Rickman have filed a motion to dismiss, but Defendant Matthews has not yet been identified and served.

On May 16, 2013, the United States Marshal returned the USM-285 form for Defendant Matthews, unexecuted. (Doc. 26.) An attached memo from a litigation technician at High Desert State Prison states that there is no record of an employee named H. D. Matthew or Matthews. The Court is not persuaded that Defendant Matthews, who is or was a lieutenant, cannot be identified and it is not clear from the USM-285 form how the Litigation Office at High Desert State Prison became involved in the attempt to serve Lt. Matthews at Corcoran. Furthermore, the defendant is Lt. D. Matthews rather than an H. D. Matthews. Based on these concerns, Plaintiff is entitled to re-service on Defendant Matthews. 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3).

