28

1 2 3 4 5 UNITED STATES DISTRICT COURT 6 EASTERN DISTRICT OF CALIFORNIA 7 NORMAN L. PIMENTEL, 1:10cv01736 LJO DLB 8 9 Plaintiff, ORDER TO SHOW CAUSE 10 v. COUNTY OF FRESNO, et al., 11 12 Defendants. 13 14 Plaintiff Norman L. Pimentel initiated this action in March 2009. He filed a Fourth Amended Complaint on October 19, 2011, against Defendants County of Fresno ("County"), 15 Captain Jose Flores ("Flores") and Does 2, 3, 4 and 5. Doc. 47. 16 17 On January 24, 2012, the Court dismissed Plaintiff's claims against the County and Flores 18 with prejudice and judgment was entered in their favor. Docs. 60 and 61. 19 Following dismissal of the claims against the County and Flores, Plaintiff has a single remaining claim for deliberate indifference against Defendants Does 2, 3, 4 and 5, who are 20 21 identified as "employees of the County serving in the Fresno County Sheriffs Department as 22 corrections officers in the jail." Doc. 47 ¶ 5. 23 To date, Plaintiff has failed to substitute the true names for each of the Doe Defendants and there is no indication that he has undertaken any efforts at discovery to identify these 24 25 unknown defendants. See Wakefield v. Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999) 26 ("[W]here the identity of the alleged defendant is not known prior to the filing of a complaint, the 27 plaintiff should be given an opportunity through discovery to identify the unknown defendants,

unless it is clear that discovery would not uncover the identities, or that the complaint would be dismissed on other grounds."). Accordingly, Plaintiff is ORDERED TO SHOW CAUSE, if any he has, why this action should not be dismissed for failure to discover the identity of the alleged Doe defendants and for failure to prosecute this action. Plaintiff SHALL file a written response to this order to show cause within fourteen (14) days of the date of this order. If Plaintiff fails to comply with this order, the Court will recommend that this action be dismissed for failure to prosecute. IT IS SO ORDERED. /s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE