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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RICHARD ABERCROMBIE,

Plaintiff,

vs.

DR. KAUT, et al.,

Defendants.

1:11-cv-00048-GSA-PC

ORDER FOR PLAINTIFF TO PROVIDE  
FURTHER EVIDENCE OF DEFENDANT  
KAUT'S CURRENT ADDRESS, OR CASE  
WILL BE DISMISSED  
(Doc. 22.)

THIRTY DAY DEADLINE

**I. RELEVANT PROCEDURAL HISTORY**

Richard Abercrombie ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on January 11, 2011. (Doc. 1.) On January 27, 2011, Plaintiff consented to the jurisdiction of a Magistrate Judge under 28 U.S.C. § 636(c), and no other parties have appeared in this action. (Doc. 5.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall conduct any and all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

1 This action now proceeds on Plaintiff's initial Complaint filed on January 11, 2011,  
2 against sole defendant Dr. Richard M. Kaut ("Defendant"), for denial of medical care in  
3 violation of the Eighth Amendment. (Doc. 1.)

4 On January 13, 2012, and again on May 31, 2013, the Court issued orders directing the  
5 Marshal to initiate service of process upon Defendant Kaut using addresses provided by  
6 Plaintiff. (Docs. 13, 20.) The Marshal attempted service at a P.O. Box and three different  
7 street addresses and was unable to locate the Defendant. (Docs. 15, 22.)

8 On February 27, 2014, the court issued an order for Plaintiff to show cause why this  
9 case should not be dismissed for failure to effect service upon Defendant Kaut. (Doc. 23.) On  
10 March 17, 2014, Plaintiff filed a response to the order to show cause. (Doc. 24.) Plaintiff  
11 asserts that he "found information through Google of Dr. Richard Kaut, which is current as of  
12 02/03/14 . . . show[ing] two new addresses and a place of business at Susanville emergency  
13 medicine." (Id. at 1.) Plaintiff attached six pages of exhibits which appear to be copies printed  
14 from Google websites, showing identification information for Dr. Richard Kaut, including  
15 multiple addresses. (Exhs., Doc. 24 at 2-7.)

## 16 **II. DISCUSSION**

17 Plaintiff may not simply submit all the documentation he finds on the Internet in  
18 response to a name search and expect the court to find Defendant's most current addresses.  
19 Plaintiff asserts that he found "two new addresses" but does not specify which two addresses.  
20 (Doc. 24 at 1.) Plaintiff's documentation shows multiple addresses for Dr. Richard Kaut in  
21 Nevada, Maine, California, and Oregon.

22 Moreover, Plaintiff may not expect the Marshal to attempt service at new addresses  
23 without any assurance of reliability. Plaintiff asserts that the addresses are "current as of  
24 02/03/2014." (Id.) However, the fact that an address was found pursuant to an Internet search  
25 conducted on 02/03/2014 is not evidence that the address is current as of that date. The court  
26 also notes that Plaintiff's documentation shows multiple professional license numbers for Dr.  
27 Richard Kaut. Thus, there is no assurance that Plaintiff's documentation even pertains to the  
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1 same Dr. Richard Kaut who is the Defendant in this action. Plaintiff has not shown cause why  
2 defendant Kaut should not be dismissed from this action for failure to serve process.

3 Plaintiff shall be afforded another opportunity to provide a current address for defendant  
4 Kaut, within thirty days of the date of service of this order. Plaintiff is advised that the court  
5 will not direct the Marshal to make a third attempt to serve defendant Kaut unless Plaintiff  
6 informs the court of specific new address(es) for Richard Kaut, with some assurance that the  
7 address(es) are current, reliable, and belong to the Defendant in this action.

8 **III. CONCLUSION**

9 Based on the foregoing, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff's response filed on March 17, 2014 does not sufficiently show cause  
11 why defendant Richard Kaut should not be dismissed from this action for failure  
12 to effect service;
- 13 2. Plaintiff is granted another opportunity to provide a current address for  
14 defendant Kaut, within thirty days of the date of service of this order, as  
15 instructed by this order; and
- 16 3. If Plaintiff fails to comply with this order, defendant Kaut shall be dismissed  
17 from this action, dismissing this case in its entirety.

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19 IT IS SO ORDERED.

20 Dated: March 21, 2014

/s/ Gary S. Austin  
21 UNITED STATES MAGISTRATE JUDGE  
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