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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHANN MEADOWS,

 Plaintiff,

 v.

DR. REEVES,

 Defendant.

Case No. 1:11-cv-00257-SMS

ORDER TO SHOW CAUSE WHY THIS
MATTER SHOULD NOT BE DISMISSED

(Doc. 46)

RESPONSE REQUIRED WITHIN THIRTY
(30) DAYS.

Plaintiff Michann Meadows is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. On August 12, 1013, the Court authorized service of process and directed Plaintiff to complete and submit to the Court a USM-285 form and summons to permit the U.S. Marshal Service to serve Dr. Ernest Reeves, the only defendant in this action. After Plaintiff returned the necessary documents on August 19, 2013, the Court entered an order, filed August 21, 2013, directing the U.S. Marshal Service to serve the amended complaint on Defendant Reeves. On March 5, 2014, the Marshal Service returned the summons unexecuted, reporting that it was unable to locate Defendant Reeves.

In cases involving a plaintiff proceeding *in forma pauperis*, a United States Marshal, upon order of the Court, shall serve the summons and complaint. F.R.Civ.P. 4(c)(3). "[A]n incarcerated pro se plaintiff proceeding in forma pauperis is entitled to rely on the U.S. Marsha for service of the summons and complaint and . . . should not be penalized by having his action dismissed for failure

1 to effect service where the U.S. Marshal or the court clerk has failed to perform his duties." *Walker*
2 *v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994) (*quoting Puett v. Blandford*, 912 F.2d 270, 275 (9th
3 Cir. 1990)), *abrogated on other grounds by Sandin v. Connor*, 515 U.S. 472 (1975). When the
4 Marshal has failed to effect service, an incarcerated *pro se* plaintiff must demonstrate that he or she
5 has provided sufficient information to permit the marshal to identify the defendant and effectuate
6 service. *Walker*, 14 F.3d at 1422. When the *pro se* plaintiff is unable to provide accurate and
7 sufficient information to effectuate service within such time as is specified by the Court, the Court
8 may properly dismiss the complaint against the unserved defendant without prejudice. F.R.Civ.P.
9 4(m).
10

11 Because the Marshal reports that Defendant Reeves cannot be located, Rule 4(m) directs the
12 Court to give Plaintiff an opportunity to show cause why the case should not be dismissed without
13 prejudice for failure to serve Defendant Reeves. Accordingly, the Court hereby ORDERS:

- 14 1. Within thirty (30) days from the date of this order, Plaintiff shall show
15 cause why this case should not be dismissed, without prejudice, for failure
16 to serve Defendant Ernest Reeves. Plaintiff may do so by providing
17 alternative or supplemental information adequate for the Marshal Service
18 to serve Defendant Reeves.
- 19 2. Plaintiff's failure to show cause within thirty (30) days will result in
20 dismissal of this case without prejudice.
- 21 3. Plaintiff's failure to respond to this order to show cause within thirty (30)
22 days shall result in dismissal of this case without prejudice.
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25 IT IS SO ORDERED.

26 Dated: March 26, 2014

/s/ Sandra M. Snyder
27 UNITED STATES MAGISTRATE JUDGE

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