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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

AHKEEM WILLIAMS,

CASE NO. 1:12-cv-00606-SKO PC

Plaintiff,

ORDER (1) DISCHARGING ORDER TO  
SHOW CAUSE AND (2) DIRECTING RE-  
SERVICE BY THE UNITED STATES  
MARSHALS SERVICE WITHOUT  
PREPAYMENT OF COSTS

v.

KIM PEDRIERO, et al.,

Defendants.

(Docs. 25 and 27)

Plaintiff Akheem Williams, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 17, 2012. The Court previously found service of the complaint appropriate and on January 2, 2013, the Court issued an order directing the United States Marshal to initiate service of process on eleven defendants. Ten defendants subsequently waived service and filed an answer. However, the Marshal was informed by Kings County that it was unable to locate a Deputy Stephens but Assistant Chief Probation Officer Fred Stephens was deceased. As a result, Plaintiff was ordered to show cause why Deputy Stephens should not be dismissed from the action pursuant to Federal Rule of Civil Procedure 4(m). Plaintiff filed a response on May 8, 2013, informing the Court that the defendant in question may be Deputy Steps.

Accordingly, the order to show cause is HEREBY DISCHARGED and pursuant to Federal Rule of Civil Procedure 4(c), it is HEREBY ORDERED that:

- 1. The Clerk of the Court is directed to forward the following documents to the United States Marshals Service:

- 1 (1) One completed and issued summons;
- 2 (2) One completed USM-285 form;
- 3 (3) One copy of the complaint filed on April 17, 2012, plus an extra copy for the
- 4 Marshals Service; and
- 5 (4) One copy of this order, plus an extra copy for the Marshals Service.

6 2. Within ten days from the date of this order, the Marshals Service is directed to notify  
7 the following defendant of the commencement of this action and to request a waiver  
8 of service in accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C.  
9 § 566(c):

10 **DEPUTY STEPS - previously identified as Deputy Stephens - involved**  
11 **in incident at Kings County Jail on November 4, 2010**

- 12 3. The Marshals Service shall file the returned waiver of service, or the request for  
13 waiver of service if it is returned as undelivered, as soon as it is received.
- 14 4. If a waiver of service is not returned by the defendant within sixty days of the date  
15 of mailing the request for waiver, the Marshals Service shall:
  - 16 a. Personally serve process and a copy of this order upon the defendant pursuant  
17 to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c),  
18 and shall command all necessary assistance from the Kings County Jail to  
19 execute this order. The Marshals Service shall maintain the confidentiality  
20 of all information provided by the Kings County Jail pursuant to this order.
  - 21 b. Within ten days after personal service is effected, the Marshals Service shall  
22 file the return of service for the defendant, along with evidence of any  
23 attempts to secure a waiver of service of process and of the costs  
24 subsequently incurred in effecting service on said defendant. Said costs shall  
25 be enumerated on the USM-285 form and shall include the costs incurred by  
26 the Marshals Service for photocopying additional copies of the summons and  
27 complaint and for preparing new USM-285 forms, if required. Costs of  
28 service will be taxed against the personally served defendant in accordance

1 with the provisions of Fed. R. Civ. P. 4(d)(2).

2 5. **If the defendant waives service, he is required to return the signed waiver to the**  
3 **Marshals Service. The filing of an answer or a responsive motion does not**  
4 **relieve the defendant of this requirement, and the failure to return the signed**  
5 **waivers may subject the defendant to an order to pay the costs of service**  
6 **pursuant to Fed. R. Civ. P. 4(d)(2).**

7 6. In the event that the defendant either waives service or is personally served, the  
8 defendant is required to reply to the complaint. 42 U.S.C. § 1997e(g)(2).

9  
10 IT IS SO ORDERED.

11 **Dated: May 17, 2013**

**/s/ Sheila K. Oberto**  
**UNITED STATES MAGISTRATE JUDGE**