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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM THOMAS COATS,

 Plaintiff,

 v.

MUHAMMAD CHAUDHRI, et al.,

 Defendants.

Case No. 1:13-cv-02032-AWI-BAM (PC)

ORDER TO SHOW CAUSE WHY
DEFENDANTS CONVALECER AND
GUNDRAN SHOULD NOT BE DISMISSED
FROM THIS ACTION FOR FAILURE TO
PROVIDE SUFFICIENT INFORMATION TO
EFFECTUATE SERVICE

(ECF Nos. 63, 64)

THIRTY (30) DAY DEADLINE

I. Introduction

Plaintiff William Thomas Coats (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on December 12, 2013. This action proceeds against Defendants Convalecer, Fairchild, Gladden, Gundran, and Nguyen for deliberate indifference to serious medical needs. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

II. Service by the United States Marshal

On November 6, 2017, the Court issued an order directing the United States Marshal to initiate service of process in this action upon Defendants Convalecer, Fairchild, Gladden, and Gundran. (ECF No. 57.) On January 11, 2018, the United States Marshal filed executed waivers

1 of service for Defendants Gladden and Nguyen, (ECF No. 65), and returns of service unexecuted
2 as to Defendants Convalecer and Gundran, (ECF Nos. 63, 64).¹

3 Federal Rule of Civil Procedure 4(m) provides as follows:

4 If a defendant is not served within 120 days after the complaint is filed, the
5 court—on motion or on its own after notice to the plaintiff—must dismiss the
6 action without prejudice against that defendant or order that service be made
7 within a specified time. But if the plaintiff shows good cause for the failure, the
8 court must extend the time for service for an appropriate period.

9 Fed.R.Civ.P. 4(m).

10 In cases involving a plaintiff proceeding in forma pauperis, the Marshal, upon order of the
11 court, shall serve the summons and the complaint. Fed. R. Civ. P. 4(c)(3). “[A]n incarcerated pro
12 se plaintiff proceeding in forma pauperis is entitled to rely on the U.S. Marshal for service of the
13 summons and complaint, and . . . should not be penalized by having his or her action dismissed
14 for failure to effect service where the U.S. Marshal or the court clerk has failed to perform the
15 duties required of each of them” Puett v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990). “So
16 long as the prisoner has furnished the information necessary to identify the defendant, the
17 marshal’s failure to effect service is ‘automatically good cause’” Walker v. Sumner, 14 F.3d
18 1415, 1422 (9th Cir. 1994), abrogated on other grounds by Sandin v. Connor, 515 U.S. 472, 115
19 (1995). However, where a pro se plaintiff fails to provide the Marshal with accurate and
20 sufficient information to effect service of the summons and complaint, the Court’s sua sponte
21 dismissal of the unserved defendant is appropriate. Walker, 14 F.3d at 1421–22.

22 Here, the U.S. Marshal attempted to serve Defendants Convalecer and Gundran with the
23 information that Plaintiff provided. However, the Marshal was informed that Defendants
24 Convalecer and Gundran could not be served at the institution, and no forwarding information
25 was available. (ECF Nos. 63, 64.) Plaintiff therefore has not provided sufficient information to
26 identify and locate Defendants Convalecer and Gundran for service of process. If Plaintiff is
27 unable to provide the Marshal with the necessary information to identify and locate these
28 defendants, Defendants Convalecer and Gundran shall be dismissed from this action, without

¹ The Court has not yet received an executed waiver or return of service for Defendant Fairchild.

1 prejudice. Pursuant to Rule 4(m), the Court will provide Plaintiff with the opportunity to show
2 cause why Defendants Convalecer and Gundran should not be dismissed from the action at this
3 time.

4 **III. Conclusion and Order**

5 Based on the foregoing, it is HEREBY ORDERED that:

6 1. Within **thirty (30) days** from the date of service of this order, Plaintiff shall show
7 cause why Defendants Convalecer and Gundran should not be dismissed from this action; and

8 2. **The failure to respond to this order or the failure to show cause will result in**
9 **the dismissal of Defendants Convalecer and Gundran from this action.**

10 IT IS SO ORDERED.
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12 Dated: January 19, 2018

/s/ Barbara A. McAuliffe
13 UNITED STATES MAGISTRATE JUDGE

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