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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 RODERICK BRYAN RUSSELL, JR.,

12 Plaintiff,

13 v.

14 SONNY PEREZ,
15 Defendant.
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Case No. 1:14-cv-00487-EPG (PC)

ORDER DISMISSING CASE WITHOUT
PREJUDICE AND DIRECTING CLERK OF
COURT TO CLOSE CASE
(ECF NO. 16)

17 Plaintiff, Roderick Bryan Russell, Jr., is a former state prisoner proceeding *pro se* and *in*
18 *forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the
19 Complaint commencing this action on April 7, 2014. (ECF No. 1). This action now proceeds
20 on the First Amended Complaint filed on February 17, 2015, against defendant Sonny Perez on
21 claims for excessive force in violation of the Eighth Amendment and retaliation in violation of
22 the First Amendment. (ECF Nos. 8 & 12).

23 On May 3, 2016, the Court issued an order directing the United States Marshals Service
24 (“the Marshal”) to serve process upon defendant Sonny Perez. (ECF No. 14). On September
25 16, 2016, the Marshal filed a return of service unexecuted. (ECF No. 15). The Marshal
26 indicated that the California Department of Corrections and Rehabilitation informed the
27 Marshal that defendant Sonny Perez retired and did not leave a forwarding address. (Id.).
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1 Accordingly, the Court issued an order to show cause. (ECF No. 16). The order gave Plaintiff
2 a thirty day deadline to show cause why the case should not be dismissed without prejudice
3 pursuant to Federal Rule of Civil Procedure Rule 4(m). Plaintiff was warned that if he was
4 unable to provide the Marshal with additional information that would allow the Marshal to
5 locate the defendant, the case would be dismissed without prejudice. Plaintiff failed to respond
6 within the deadline.

7 Plaintiff has failed to follow a Court order to show cause or to provide any information
8 to proceed with service. Additionally, this case cannot proceed on the current information
9 available. It does not appear that Plaintiff has a location for the defendant in order to serve the
10 complaint, CDCR does not appear to have information to locate the defendant, and the Court
11 cannot order the Marshal to serve the defendant because Plaintiff did not provide any additional
12 information.

13 Accordingly, IT IS ORDERED that this case is DISMISSED, WITHOUT PREJUDICE.
14 IT IS FURTHER ORDERED that the Clerk of Court is directed to close this case.

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16 IT IS SO ORDERED.

17 Dated: November 8, 2016

18 /s/ Eric P. Gray
19 UNITED STATES MAGISTRATE JUDGE
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