

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL PURTUE,) Case No.: 1:15-cv-00551-SAB (PC)
Plaintiff,)
v.)
B. KEARNES, et al.,) ORDER DISCHARGING ORDER TO SHOW
Defendants.) CAUSE WHY DEFENDANTS SHOULD NOT BE
) DISMISSED PURSUANT TO FEDERAL RULE OF
) CIVIL PROCEDURE 4(M)
) [ECF No. 13]
)

Plaintiff Michael Purtue is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

This action proceeds on Plaintiff's second amended complaint against Defendants Rizer, Eberle, Meyers, J. Emerson, R. Sanchez, J. Chavez, B. Mello, L. Lundy, and D. Magallance on Plaintiff's Eighth Amendment medical care claim. The Marshal was not able to locate Defendants J. Chavez, Meyers, and S. Rizer and service was returned un-executed on September 22, 2016.

On September 26, 2016, the Court issued an order to show cause why Defendants Chavez, Meyers and Rizer should be dismissed pursuant to Federal Rule of Civil Procedure 4(m). (ECF No. 13.)

Plaintiff filed a response to the order to show cause on October 13, 2016. (ECF No. 14.) Although the Court's September 26, 2016, order inadvertently stated that Defendants were attempted to be served at Pelican Bay State Prison, service was correctly attempted at California Correctional

1 Institution in Tehachapi California. (ECF No. 12.) Nonetheless, based on the information in Plaintiff's
2 response to the order to show cause, the Court will discharge the order to show cause and in a separate
3 order direct the United States Marshal to attempt re-service on Defendants. However, Plaintiff is
4 advised that if the United States Marshal is again unable to locate these Defendants, they will be
5 subject to dismissal under Rule 4(m).

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7 IT IS SO ORDERED.

8 Dated: October 18, 2016



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UNITED STATES MAGISTRATE JUDGE