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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MONICO J. QUIROGA,) Case No. 1:16-cv-00071-SAB (PC)
)
Plaintiff,)
)
v.) ORDER VACATING ORDER TO SHOW
) CAUSE ISSUED OCTOBER 7, 2016
)
C. CHAPA,) [ECF No. 22]
)
Defendant.)
)
)
)
)
)

Plaintiff is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 636(c), Plaintiff consented to the jurisdiction of the United States Magistrate Judge on February 16, 2016. Local Rule 302.

This action is proceeding on Plaintiff's first amended complaint against Defendant C. Chapa for sexual assault in violation of the Fourteenth Amendment. On May 23, 2016, the Court ordered the United States Marshal to service the summons and complaint on Defendant Chapa. However, the Marshal was not able to locate Defendant Chapa and service was returned un-executed on October 6, 2016.

On October 7, 2016, the Court issued an order for Plaintiff to show cause why the action should not be dismissed under Federal Rule of Civil Procedure 4(m) for failure to serve Defendant Chapa. On December 2, 2016, Plaintiff filed a response to the order to show cause.

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By way of separate order, the Court will issue a second order directing the United States Marshal to attempt re-service in this action on Defendant C. Chapa and demonstrate that all available avenues were exhausted in attempting to serve C. Chapa.

IT IS SO ORDERED.

Dated: December 12, 2016


UNITED STATES MAGISTRATE JUDGE