

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

MONICO J. QUIROGA,)	Case No. 1:16-cv-00071-SAB (PC)
Plaintiff,)	
v.)	ORDER DENYING PLAINTIFF’S MOTION TO COMPEL AS MOOT
C. CHAPA,)	[ECF No. 38]
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.

Currently before the Court is Plaintiff’s motion to compel discovery, filed April 14, 2017. Plaintiff seeks the last known address for Defendant C. Chapa in order to facilitate service of process by the United States Marshal. Plaintiff’s motion must be denied.

This action is proceeding on Plaintiff’s 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. It was noted that C. Chapa was no longer employed by Kern County. On December 12, 2016, the Court issued a second order directing the

1 United States Marshal to serve Defendant C. Chapa and to review personnel and/or county/state
2 records to ascertain Chapa's current address of record.

3 On April 11, 2017, the summons was returned unexecuted. (ECF No. 36.) On the form, the
4 Marshal notes that the address provided was for sale and appeared vacant. Contact was made with the
5 agent selling the house who stated the house has been vacant since January and he/she did not
6 recognize the Defendant's name. (Id.) Therefore, on April 12, 2017, the Court issued a second order
7 for Plaintiff to show cause as to why the action should not be dismissed, without prejudice, pursuant to
8 Federal Rule of Civil Procedure 4(m). As explained in the Court's April 12, 2017, order, it is
9 ultimately Plaintiff's responsibility to provide sufficient information to assist the Marshal in serving
10 Defendant C. Chapa. At this juncture, the Marshal has attempted service at the last known address for
11 C. Chapa which was not effective. Accordingly, Plaintiff must either effectuate service himself or
12 provide additional information for the Marshal to locate and serve C. Chapa. Therefore, Plaintiff's
13 motion to compel discovery of C. Chapa's last address is denied as moot.

14
15 IT IS SO ORDERED.

16 Dated: April 18, 2017



UNITED STATES MAGISTRATE JUDGE