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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF CALIFORNIA  
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7 TRAYVONE SMITH,  
8 Plaintiff,  
9 v.  
10 EMMANUEL J. FANTONE and  
11 JASWANT KHOKHAR,  
12 Defendants.  
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Case No. 1:16-cv-01179-EPG (PC)  
ORDER FOR PLAINTIFF TO SHOW  
CAUSE WHY THIS CASE SHOULD NOT  
BE DISMISSED WITHOUT PREJUDICE  
FOR FAILURE TO PROSECUTE  
(ECF NOS. 16 & 17)  
THIRTY DAY DEADLINE

14 Trayvone Smith (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis*  
15 with this civil rights action pursuant to 42 U.S.C. § 1983.

16 Both defendants in this case have executed a waiver of service of summons. (ECF Nos.  
17 16 & 17). Both defendants have failed to file a responsive pleading within the time period laid  
18 out in the waivers. (*Id.*).

19 However, Plaintiff has not moved for a default judgment, or otherwise attempted to  
20 prosecute this case since Defendants’ failure to file responsive pleadings.

21 Therefore, the Court will order Plaintiff to show cause why this case should not be  
22 dismissed, without prejudice, for failure to prosecute.

23 The Court notes that if Plaintiff begins going through the appropriate procedure to get a  
24 default judgment (see Fed. R. Civ. P. 55), the Court will vacate this order to show cause.

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