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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JEREMY JONES,

Plaintiff,

vs.

ARNETTE, et al.,

Defendants.

**1:16-cv-01212-DAD-GSA-PC**

**ORDER DISCHARGING ORDER TO SHOW  
CAUSE  
(ECF No. 15.)**

**I. BACKGROUND**

Jeremy Jones (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983 and the Americans with Disabilities Act (ADA), 42 U.S.C. § 12132.

On June 8, 2020, the Court found that service of the Second Amended Complaint was appropriate in this case as to Defendants Arnette, Flores, Lopez, Zamora, Vasquez, Gonzalez, and Keener for violation of the Eighth Amendment, Fourteenth Amendment, and ADA. Electronic service was then ordered, which directed the CDCR “no later than 40 days” after service of the Court’s order to “file with the Court the ‘CDCR Notice of E-Service Waiver’ advising the Court which defendant(s) . . . will be waiving service of process without the need for personal service by the United States Marshal.” (ECF No. 48, Order at 3:26 – 4: 1.)

1 According to the court’s record, CDCR returned Notices of E-Service Waiver for  
2 Defendants Gonzalez, Flores, Arnette, and Keener, and these four Defendants filed an Answer  
3 to the complaint on October 30, 2020. (ECF Nos. 53, 54, 57.) However, there was no record  
4 that CDCR had returned Notices for Defendants Lopez, Zamora, or Vasquez, and the forty-day  
5 time period had expired.

6 On January 22, 2021, the court issued an order for CDCR to show cause why sanctions  
7 should not be imposed for failure to comply with the court’s June 8, 2020 order. (ECF No. 64.)  
8 On February 2, 2021, CDCR filed a response to the order to show cause. (ECF No. 65.)

9 **II. CDCR’S RESPONSE**

10 CDCR responds with evidence showing that they complied with the June 8, 2020 order.  
11 California Deputy Attorney General Janet N. Chen, by special appearance for CDCR, declares:

12  
13 On July 17, 2020, CDCR sent an email to FilingsFresno@caed.uscourts.gov, with  
14 an attachment entitled “CDCR Notice of E-Service Waiver.” The attachment  
15 indicates that Defendants Arnett, Flores, and Keener intend to waive service; that  
16 Defendants Lopez, Zamora, and Vasquez do not intend to waive service; and that  
17 Defendant Gonzales requests additional time to file his notice of intent to waive  
18 or not waive service.

19  
20 (Chen Decl. ECF No. 65 at 3 ¶4.) CDCR submitted a copy of the email, with confidential  
21 information redacted. (Id., Exh. A.) The “Notice of E-Service Waiver,” which had been attached  
22 to the email, was not submitted by CDCR as part of their response to the order to show cause,  
23 due to the confidential nature of the information. (Id. at 3 ¶4.) CDCR was informed that it was  
24 already provided to the court with CDCR’s July 17, 2020 email. (Id.)

25 Chen declares that by the same email, CDCR sent a “Request for Extension of Time to  
26 File CDCR Notice of E-Service Waiver” on behalf of defendant Gonzalez, which was filed as  
27 ECF No. 50. (Id. at ¶5.) However, the Notice of Intent to Waive or Not Waive Service on behalf  
28 of the remaining Defendants does not appear to have been filed. (Id.)

1 **III. DISCUSSION AND CONCLUSION**

2 The court has reviewed the January 27, 2020 email sent to the court by CDCR, and  
3 CDCR's evidence that on July 17, 2020, CDCR provided the court with a copy of a "CDCR  
4 Notice of E-Service Waiver," indicating that Defendants Arnett, Flores, and Keener intend to  
5 waive service; that Defendants Lopez, Zamora, and Vasquez do not intend to waive service; and  
6 that Defendant Gonzales requests additional time to file his notice of intent to waive or not waive  
7 service. CDCR's evidence shows that they have complied with the court's June 8, 2020 order,  
8 but the "CDCR Notice of E-Service" was not filed by the court on July 17, 2020, through no fault  
9 of CDCR. Thus, CDCR has shown that they complied with the court's June 8, 2020 order and  
10 that sanctions should not be imposed. Accordingly, the court's order to show cause shall be  
11 discharged.

12 Therefore, **IT IS HEREBY ORDERED** that:

- 13 1. The court's order to show cause, issued on January 22, 2021, is **DISCHARGED**;  
14 and  
15 2. The Clerk of Court shall file under seal CDCR's Notice of E-Service Waiver as  
16 to Defendants Arnett, Flores, Keener, Lopez, Zamora, and Vasquez which was  
17 submitted to the court by CDCR via email on July 17, 2020.

18  
19 **IT IS SO ORDERED.**

20 Dated: **February 4, 2021**

**/s/ Gary S. Austin**  
21 UNITED STATES MAGISTRATE JUDGE  
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