

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

TONY EUGENE SCALLY,

Plaintiff,

v.

N. ARSUANT,

Defendant.

CASE No. 1:16-cv-01237-MJS

**ORDER DIRECTING PLAINTIFF TO
PROVIDE FURTHER INFORMATION
ABOUT DEFENDANT “BERRY”**

THIRTY DAY DEADLINE

Plaintiff is a prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The action proceeds on Plaintiff’s First Amendment religious exercise and Fourteenth Amendment Equal Protection claims against Defendants Sergeants Arsaunt and Berry of California State Prison (“CSP”) in Corcoran, California. As the first attempt at service on Defendant Berry was returned unexecuted (ECF No. 18), the Court directed the United States Marshal (“USM”) to contact the Litigation Coordinator at CSP to request his or her assistance in locating Defendant Berry. (ECF No. 19.) On May 15, 2017, the summons was again returned unexecuted; in the remarks section of the USM-285, the Marshal wrote “Per the Litigation Coordinator, CSP Corcoran has never employed a Sgt. Berry. This was

1 confirmed by personnel. They also checked all logs Nov. 2015. They will not accept
2 service.” (ECF No. 20.)

3 The Court and the United States Marshal (“USM”) have a statutory duty to serve
4 process on Plaintiff’s behalf. However, they cannot do so unless they are able to locate
5 the Defendant. Accordingly, Plaintiff is DIRECTED to, within **thirty (30) days** of this
6 order, provide any and all additional information available to him regarding the identity of
7 “Sergeant Berry” to assist the Court and USM in locating this Defendant. This includes,
8 but is not limited to, any other names this Defendant was known by, any other positions
9 he may have held, or a detailed description of this Defendant’s physical appearance. If
10 Plaintiff has in his possession copies of grievances or any other paperwork that may
11 assist the Court in identifying this Defendant, he is encouraged to submit them.

12
13 IT IS SO ORDERED.

14 Dated: May 16, 2017

/s/ Michael J. Seng
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28