

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

3
4 TONY EUGENE SCALLY,

5 Plaintiff,

6 v.

7 N. ARSUANT,

8 Defendant.
9

Case No. 1:16-cv-01237-AWI-MJS

**ORDER DISMISSING DEFENDANT
"BERRY" FROM ACTION**

**CLERK TO TERMINATE DEFENDANT
BERRY**

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11 Plaintiff is a prisoner proceeding pro se and in forma pauperis in this civil rights
12 action brought pursuant to 42 U.S.C. § 1983. The action proceeds on Plaintiff's First
13 Amendment religious exercise and Fourteenth Amendment Equal Protection claims
14 against Defendants Sergeants Arsaunt and Berry of California State Prison ("CSP") in
15 Corcoran, California.

16 After the United States Marshal made several unsuccessful attempts to serve
17 Defendant Berry (see ECF Nos. 18 & 20), on June 27, 2017, the Magistrate Judge
18 assigned to the case directed Plaintiff to show cause within fourteen days why
19 Defendant Berry should not be dismissed based on inability to effect service on him.
20 (ECF No. 26.) To date, Plaintiff has failed to respond.

21 Accordingly, IT IS HEREBY ORDERED that Defendant Berry is DISMISSED from
22 the action, without prejudice, and the Clerk is DIRECTED to terminate Defendant Berry
23 from the action.

24 IT IS SO ORDERED.

25 Dated: August 2, 2017

26 
27 SENIOR DISTRICT JUDGE
28