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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
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9 MONICO J. QUIROGA III,

10 Plaintiff,

11 v.

12 C. COOPER, *et al.*,

13 Defendants.
14

Case No. 1:17-cv-00004-DAD-JDP

ORDER TO SHOW CAUSE WHY
DEFENDANT J. MORENO SHOULD NOT
BE DISMISSED FROM CASE WITHOUT
PREJUDICE

15 Plaintiff Monico J. Quiroga III is a state prisoner proceeding pro se in this civil rights
16 action. He brings an excessive force claim under 42 U.S.C. § 1983 against Defendants
17 C. Cooper and J. Moreno. The court ordered service as to both defendants on July 10, 2017, and
18 service was returned unexecuted as to J. Moreno on November 27, 2017.¹ (Doc. Nos. 20, 30.)
19 Despite the court's efforts to assist with service as to J. Moreno (Doc. Nos. 27, 36), he remains
20 unserved. Counsel for defendants has informed the court that the Kern County Sheriff's Office
21 has neither a current employee named J. Moreno nor record of employing a J. Moreno at the time
22 of the alleged incident. (Doc. No. 50 at 2.)

23 Federal Rule of Civil Procedure 4(m) provides for a "time limit for service" as follows:

24 **(m) Time Limit for Service.** If a defendant is not served within 90 days after the
25 complaint is filed, the court—on motion or on its own after notice to the
26 plaintiff—must dismiss the action without prejudice against that defendant or
order that service be made within a specified time. But if the plaintiff shows good

27 _____
28 ¹ Service has been executed as to defendant C. Cooper, and he has filed an answer to the
complaint. (Doc. No. 44.)

1 cause for the failure, the court must extend the time for service for an appropriate
2 period

3 Fed. R. Civ. P. 4(m).

4 Accordingly,

5 Plaintiff is hereby ORDERED to SHOW CAUSE why defendant J. Moreno should not be
6 dismissed from this case without prejudice based on plaintiff's failure to effectuate service of
7 process. Plaintiff shall file a written response within 21 days of this Order. Failure to comply
8 with this Order may result in the dismissal of defendant J. Moreno without prejudice.

9 IT IS SO ORDERED.

10 Dated: June 19, 2018

11 /s/ *Jeremy D. Peterson*
12 UNITED STATES MAGISTRATE JUDGE
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