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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PAUL FREE,
Plaintiff,
v.
DR. NADER PEIKAR, et al.,
Defendants.

Case No. 1:17-cv-00159-AWI-MJS (PC)
ORDER DENYING MOTION FOR COURT ASSISTANCE
(ECF NO. 35.)

Plaintiff is federal prisoner proceeding pro se in this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403 U.S. 388 (1971). The action proceeds against Defendants Peikar, Mettri, Fuentes-Arce, and Tyson on Plaintiff's Eighth Amendment claims for medical indifference. Defendants Peikar, Fuentes-Arce, and Tyson have appeared in the action. Ms. Mettri has not appeared and there is no record of her having been served.

Before the Court is Plaintiff's March 5, 2018 motion for the Court's assistance in locating Defendant Mettri or instruct him how to proceed. (ECF No. 35.)

The Court cannot assist Plaintiff in prosecuting his case nor can the Court instruct him on law or procedure. Plaintiff may seek Defendat Mettri's whereabouts through the

1 discovery process or, if unsuccessful in that endeavor, may seek a subpoena duces
2 tecum requiring the Bureau of Prisons to provide information regarding Ms. Mettri. The
3 Court will not issue a subpoena unless and until Plaintiff has demonstrated he has
4 exhausted other efforts to locate Ms. Mettri.

5 The Court recently stayed all discovery in this case except that pertaining to the
6 issue of exhaustion. (ECF No. 40.) However, in light of Plaintiff's representation that he
7 has been unable to locate Ms. Mettri, the Court will hereby modify the stay to permit
8 discovery regarding Ms. Mettri's whereabouts. Furthermore, to avoid further delay of this
9 action and to the extent Ms. Mettri remains employed by the Bureau of Prisons, the
10 Court requests the assistance of the Assistant United States Attorney in providing
11 Plaintiff with information to effectuate service.

12 Based on the foregoing, Plaintiff's motion is HEREBY DENIED.

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14 IT IS SO ORDERED.

15 Dated: April 11, 2018

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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