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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BARRY LEE BROOKINS,)	Case No. 1:17-cv-01675-AWI-SAB (PC)
Plaintiff,)	
v.)	SECOND ORDER DIRECTING SERVICE ON
M. HERNANDEZ, et al.,)	DEFENDANT SALVADO BY THE UNITED
Defendants.)	STATES MARSHAL
)	[ECF Nos. 20, 21, 22]
)	
)	

Plaintiff Barry Lee Brookins is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

This action is proceeding on Plaintiff’s claim for cruel and unusual punishment against Defendants officer M. Hernandez, lieutenant E. Williams, captain Williams, officer L. Sanchez, officer Galvenson, officer Schleesman, sergeant Crane, sergeant Salvado, and S. Marsh.

On October 24, 2018, the directed the United States Marshal to serve Defendants without prepayment of costs.

The United States Marshal was not able to locate or identify Defendant Salvado, and service was returned un-executed on October 29, 2018. The following information was provided by the Marshal in the remarks of the unexecuted summons: “SATF is unable to identify an employee by this name or any name close to it.” (ECF No. 20.) Therefore, on November 1, 2018, the Court ordered Plaintiff to show

1 cause why Defendant Salvado should not be dismissed, without prejudice, pursuant to Federal Rule of
2 Civil Procedure 4(m).

3 Plaintiff filed a response to the order to show cause on November 26, 2018. (ECF No. 22.)
4 Plaintiff has provided additional information to assist with the identification of Defendant Salvado.

5 (Id.) Accordingly, pursuant to Federal Rule of Civil Procedure 4(c), it is HEREBY ORDERED that:

- 6 1. The Clerk of Court shall forward a copy of Plaintiff's response to the order to show
7 which provides additional information as to Defendant Salvado (ECF No. 22).
- 8 2. Within ten days from the date of this order, the Marshals Service is directed to notify
9 the following Defendant of the commencement of this action and to request a waiver of
10 service in accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. §
11 566(c):

12 **SALVADO-Correctional Sergeant at California Substance Abuse and**
13 **Treatment Facility and State Prison, Corcoran ("SATF") on February 19,**
14 **20, 21, 2017. Sergeant Salvado worked the first, second or third watch in**
15 **the administrative segregation unit.**

- 16 3. The Marshal Service shall file the returned waivers of service, or the requests for
17 waiver of service if returned as undelivered, once received.
- 18 4. The Marshals Service shall command all necessary assistance from the CDCR and from
19 the Litigation Coordinator at SATF to identify and locate the above Defendant for service.
- 20 5. If a waiver of service is not returned by a Defendant within sixty days of the date of
21 mailing the request for waiver, the Marshals Service shall:
 - 22 a. Personally serve process and a copy of this order upon the Defendant pursuant
23 to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c), and shall command all
24 necessary assistance from the CDCR to execute this order. In executing this order, the Marshals
25 Service shall contact the CDCR if employees at SATF are unable to assist in identifying and/or
26 locating any of the above Defendants. The Marshals Service shall maintain the confidentiality of all
27 information provided by SATF and the CDCR pursuant to this order.

1 b. Within ten days after personal service is effected, the Marshals Service shall file
2 the return of service, along with evidence of any attempts to secure a waiver of service of process and
3 of the costs subsequently incurred in effecting service. These costs shall be enumerated on the USM-
4 285 form and shall include the costs incurred by the Marshals Service for photocopying additional
5 copies of the summons and complaint and for preparing new USM-285 forms, if required. Costs of
6 service will be taxed against each personally served Defendant in accordance with the provisions of
7 Fed. R. Civ. P. 4(d)(2).

8 6. In the event that a Defendant either waives service or is personally served, the
9 Defendant is required to reply to the complaint. 42 U.S.C. § 1997e(g)(2).

10
11 IT IS SO ORDERED.

12 Dated: November 27, 2018



UNITED STATES MAGISTRATE JUDGE