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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ERIC CHARLES RODNEY KNAPP,                      No. CIV S-05-2520-FCD-CMK-P

Plaintiff,

vs.

ORDER TO SHOW CAUSE

N. ALI,<sup>1</sup> et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. A review of the court’s docket reflects that the following defendants remain unserved. Gunning, Marshall, Murray, and Warvarovski. In the court’s February 21, 2008, findings and recommendations, the court stated as follows regarding these defendants:

Finally, the court addresses the four unserved defendants – Warvarovski, Gunning, Marshall, and Murray. As to Gunning, Marshall, and Murray, on November 29, 2007, the court directed the United States Marshal to obtain information directly from prison officials and, if possible, to effect service of process. The United States Marshal was directed to notify the court within 20 days of the date of that order if

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<sup>1</sup> Previously, the court’s captions listed Roderick Hickman as the lead defendant. This individual, however, has been terminated as a defendant to the action. N. Ali is the first remaining defendant listed on the court’s docket and, therefore, is now the lead defendant.

1 information sufficient to serve these three defendants was not available.  
2 On February 15, 2008, court staff communicated with the United States  
3 Marshal's office and learned that plaintiff had not provided sufficient  
4 information to locate Gunning, Marshall, or Murray. Specifically, as to  
5 Gunning, this individual retired and left no forwarding address. As to  
6 Marshall and Murray, there are several such individuals working for the  
7 California Department of Corrections and Rehabilitation and plaintiff did  
8 not provide enough identifying information. As to defendant  
9 Warvarovski, service was returned unexecuted on February 2, 2007,  
because he is on military service overseas and cannot be located.

6 It is possible that plaintiff may be able to obtain additional  
7 information regarding these four defendants by way of the discovery  
8 process. Therefore, the court does not recommend dismissal of them at  
9 this time. If, however, after a reasonable period of time, plaintiff is unable  
10 to provide additional information, the court will recommend dismissal  
11 pursuant to Federal Rule of Civil Procedure 4(m). In the meantime, the  
12 court will monitor for service of these four individuals.

10 Nearly 18 months have passed and plaintiff has not provided the court with any additional  
11 information which would allow the United States Marshall to serve process on these four  
12 individuals.

13 Plaintiff shall show cause within 20 days of the date of this order why Gunning,  
14 Marshall, Murray, and Warvarovski should not be dismissed as defendants to this action pursuant  
15 to Federal Rule of Civil Procedure 4(m) for failure to effect timely service. Plaintiff is cautioned  
16 that failure to respond to this order may result in the dismissal of these four defendants for the  
17 reasons outlined above as well as failure to prosecute and comply with court orders. See Local  
18 Rule 11-110.

19 IT IS SO ORDERED.

20  
21 DATED: August 18, 2009

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23 **CRAIG M. KELLISON**  
24 UNITED STATES MAGISTRATE JUDGE  
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