

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

JEFFREY BRYAN NORSWORTHY,      No. CIV S-09-2989-LKK-CMK-P

Plaintiff,

vs.

ORDER

RIVERS,

Defendant.

\_\_\_\_\_ /

Plaintiff, a prisoner proceeding pro se, and in forma pauperis, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On July 6, 2011, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. Petitioner timely objected to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304(f), this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court declines to adopt the findings and recommendations (Dkt. No. 34).

///

1           Petitioner, with the assistance of the U.S. Marshals Service, attempted to serve his  
2 complaint on “Correctional Officer Rivers,” the sole remaining defendant in this Section 1983  
3 case. Service was attempted at the California Department of Corrections, California Medical  
4 Facility, P.O. Box 2000, Vacaville, CA 95696-2000. Dkt. No. 30. The attempted service failed  
5 because the facility reported that Rivers resigned in December 2009.<sup>1</sup> Id.

6           On April 15, 2011, the Magistrate Judge ordered plaintiff to seek additional information,  
7 pursuant to Cal. Govt. Code § 6250, et seq., or otherwise, sufficient to effect service on  
8 defendant Rivers, and to seek judicial intervention in the event “access to the required  
9 information is denied or unreasonably delayed.” Dkt. No. 31. Petitioner has now filed a motion  
10 for judicial intervention, asserting that the law librarian was denying him access to the law  
11 library.<sup>2</sup> Dkt. No. 33. That motion is **GRANTED**.

12           Accordingly, pursuant to Fed. R. Civ. P. 31(a)(1) and the court’s inherent powers, the  
13 court orders the California Department of Corrections (“CDC”) to file in this case its answers or  
14 response to the following questions within thirty (30) days of the date of this order:

- 15           1.       What is the first name of Correctional Officer Rivers, a female person, who  
16                   resigned (or was transferred) from CDC and/or from the California Medical  
17                   Facility on or about December 2009?
- 18           2.       What is the current work location of Correctional Officer Rivers, or her last  
19                   known location if the current one is unknown?

20 This order shall be served upon the California Attorney General as counsel for the California  
21 Department of Corrections (see Cal. Govt. Code § 12512). If the CDC cannot or will not answer

---

23           <sup>1</sup> The U.S. Marshals Service also noted that according to the “CDC locator,” there were  
24 four (4) Correctional Officers with the last name of “Rivers.”

25           <sup>2</sup> Petitioner has previously asserted that the law librarian was denying him access to the  
26 law library as well as legal forms and the ability to copy documents. Dkt. No. 27.

1 these questions, it shall file a statement in this case explaining the fact.

2 All other pending motions are held in abeyance, pending resolution of the service issue.<sup>3</sup>

3 IT IS SO ORDERED.

4 DATED: January 31, 2012.

5

6



LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

---

26 <sup>3</sup> See Dkt. No. 27 (Motion for Temporary Restraining Order); Dkt. No. 32 (Motion to Appoint Counsel).