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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS,  
Plaintiff,  
v.  
DR. NANGALAMA, et al.,  
Defendants.

No. 2:12-cv-1202 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, with a civil rights action pursuant to 42 U.S.C. § 1983. On December 3, 2014, the undersigned recommended that defendant Dr. Vu be dismissed based on plaintiff's failure to provide information for service of process on Dr. Vu. On December 15, 2014, plaintiff filed a request for judicial intervention to assist him in locating defendant Dr. Vu.

In his second amended complaint plaintiff alleges that, *inter alia*, in December 2009, while he was incarcerated at California State Prison, Sacramento ("CSP-SAC"), Dr. Vu violated plaintiff's Eighth Amendment rights by cutting plaintiff's pain medication despite medical evidence that plaintiff's cervical spondylosis had worsened. (ECF No. 39 at 7.)

Service on Dr. Vu was returned unexecuted noting that Dr. Vu was no longer working at CSP-SAC. The remaining defendants filed an answer on September 4, 2014.

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1 Court records indicate that there is a Dr. M. Vu working at the California Correctional  
2 Institution, and who has appeared in federal court actions through counsel. Payan v. Tate, Case  
3 No. 1:13-cv-0807 LJO DLB (E.D. Cal., Fresno Div.), and Villa v. Gonzalez, Case No. 1:11-cv-  
4 1080 LJO DLB (E.D. Cal., Fresno Div.). It is unclear whether Dr. M. Vu is the same Dr. Vu who  
5 was working at CSP-SAC in 2009. However, it is likely that the California Department of  
6 Corrections and Rehabilitation (“CDCR”) has information that would assist the court in locating  
7 defendant Dr. Vu to accomplish service of process.<sup>1</sup> For example, it is likely that the CDCR or its  
8 human resources department has a record of Dr. Vu’s California state license number as well as a  
9 forwarding address for Dr. Vu for personnel and tax purposes.


10 Good cause appearing, the findings and recommendations are vacated, and counsel for  
11 defendants are directed to contact the CDCR and obtain Dr. Vu’s complete name and California  
12 state medical license number and, if available, Dr. Vu’s forwarding address. Such information  
13 shall be filed under seal for purposes of instructing the U.S. Marshal to execute service of process  
14 on defendant Dr. Vu (unless defense counsel agrees to sign a waiver of service of process on  
15 behalf of Dr. Vu).

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The December 3, 2014 findings and recommendations (ECF No. 55) are vacated;
- 18 2. Plaintiff’s request for judicial intervention (ECF No. 56) is granted; and
- 19 3. Within fourteen days from the date of this order, counsel for defendants shall file,  
20 under seal, the information obtained from the CDCR in connection with defendant Dr. Vu.

21 Dated: December 30, 2014

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

27 <sup>1</sup> Moreover, in the May 20, 2014 service order, the U.S. Marshal was directed to “command all  
28 necessary assistance from the California Department of Corrections and Rehabilitation (CDCR)  
or any last known employer of a defendant to execute this order.” (ECF No. 43 at 2.)