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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

|                     |   |                        |
|---------------------|---|------------------------|
| MALCOLM FRETT,      | ) | No. C 10-3733 RMW (PR) |
|                     | ) |                        |
| Plaintiff,          | ) | ORDER DIRECTING CLERK  |
|                     | ) | TO RE-ISSUE SUMMONS;   |
| v.                  | ) | GRANTING PLAINTIFF'S   |
|                     | ) | MOTION FOR EXTENSION   |
| F. JACQUEZ, et al., | ) | OF TIME                |
|                     | ) |                        |
| Defendants.         | ) |                        |
| _____               | ) |                        |

Plaintiff filed a pro se civil rights action pursuant to 42 U.S.C. § 1983. On November 30, 2010, the court ordered service of the stated cognizable claims upon named defendants. On December 27, 2010, the court received two summonses which were returned unexecuted. Specifically, because the facility had no information on defendant Correctional Lt. L. Osborne, and defendant Correctional Officer C. Vasquez had been transferred, the facility would not accept service for either defendant. On June 24, 2011, the court directed plaintiff to provide more identifying and location information regarding the unserved defendants. The court also requested assistance from the litigation coordinator at Pelican Bay State Prison to provide such information.

At some point, counsel for defendants entered his appearance on behalf of defendant Vasquez, thereby waiving service. Then, on October 3, 2011, counsel for defendants sent a letter

1 to the court indicating that K. Osborne at Pelican Bay State Prison, rather than L. Osborne, was  
2 the likely intended defendant. For the foregoing reasons, the court hereby orders as follows:

3 **The clerk shall issue summons and the United States Marshal shall serve,**  
4 **without prepayment of fees, copies of the complaint in this matter (docket no. 1), all**  
5 **attachments thereto, and copy of this order on defendant Correctional Lt. K. Osborne at**  
6 **Pelican Bay State Prison.**

7 Plaintiff has also filed a third motion for extension of time to file his opposition to  
8 defendants' motion to dismiss. Plaintiff's motion is GRANTED. His opposition is due on or  
9 before November 29, 2001. Defendants shall file their reply no later than fifteen days thereafter.

10 **No further requests for extension will be favored absent exigent circumstances.**

11 IT IS SO ORDERED.

12 DATED: \_\_\_\_\_

13   
14 RONALD M. WHYTE  
15 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MALCOLM FRETT,  
Plaintiff,

Case Number: CV10-03733 RMW

**CERTIFICATE OF SERVICE**

v.

F JACQUEZ et al,  
Defendant.

\_\_\_\_\_/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 25, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Malcolm Frett T37449  
High Desert State Prison  
C8-101-P  
PO Box 3030  
Susanville, CA 96127

Dated: October 25, 2011

Richard W. Wieking, Clerk  
By: Jackie Lynn Garcia, Deputy Clerk