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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 ALIVER RAMIREZ,

12 Plaintiff,

13 vs.

14 R. GUTIERREZ, et al.,

15 Defendants.
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Case No. 20cv1109-MMA-BLM

**ORDER DIRECTING CLERK OF
COURT TO REISSUE IFP
PACKAGE TO PLAINTIFF;**

**DIRECTING U.S. MARSHAL TO
EFFECT SERVICE OF SUMMONS
AND COMPLAINT PURSUANT TO
28 U.S.C. § 1915(d) AND
Fed. R. Civ. P. 4(c)(3)**

20 Plaintiff Aliver Ramirez, currently incarcerated at Richard J. Donovan State Prison
21 (“RJD”) located in San Diego, California, and proceeding pro se, has filed a civil rights
22 complaint pursuant to 42 U.S.C. § 1983. *See* Doc. No. 1. The Court granted Plaintiff’s
23 motion to proceed *in forma pauperis* and screened the complaint. *See* Doc. No. 6. The
24 Court directed the Clerk of Court:

25 [T]o issue a summons as to Plaintiff’s Complaint (Doc. No. 1) upon
26 Defendants GUTIERREZ, AVILES, and GARCIA and forward it to Plaintiff
27 along with a blank U.S. Marshal Form 285. In addition, the Clerk will provide
28 Plaintiff with a certified copy of this Order, a certified copy of his Complaint
and the summons so that he may serve them upon Defendants GUTIERREZ,

1 AVILES, and GARCIA [an “IFP package”].

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3 *Id.* at 7. A summons issued on September 23, 2020 and the Clerk served Plaintiff with
4 the IFP package on that same date. *See* Doc. No. 7. However, the Court has been
5 advised that, to date, Plaintiff has not received the IFP package at the facility where he is
6 currently housed. Because almost two months have passed in the interim, the Court finds
7 it appropriate to direct the Clerk to reissue the IFP package in this action.

8 Accordingly, the Court:

9 1. **DIRECTS** the Clerk to forward the previously issued summons (Doc. No.
10 7) as to Plaintiff’s Complaint (Doc. No. 1) along with a blank U.S. Marshal Form 285 for
11 each Defendant (Defendants GUTIERREZ, AVILES, and GARCIA). In addition, the
12 Clerk will provide Plaintiff with a certified copy of this Order, a certified copy of the
13 Court’s screening order (Doc. No. 6), a certified copy of his Complaint (Doc. No. 1), and
14 the summons so that he may serve them upon Defendants GUTIERREZ, AVILES, and
15 GARCIA.

16 2. Upon receipt of this “IFP Package,” Plaintiff must complete the Form 285s
17 as completely and accurately as possible, include an address where each named
18 Defendant may be found and/or subject to service, and return them to the United States
19 Marshal according to the instructions the Clerk provides in the letter accompanying his
20 IFP package.

21 3. **ORDERS** the U.S. Marshal to serve a copy of the Complaint and summons
22 upon the named Defendants as directed by Plaintiff on the USM Form 285s provided to
23 him. All costs of that service will be advanced by the United States. *See* 28 U.S.C.
24 § 1915(d); Fed. R. Civ. P. 4(c)(3).

25 4. **ORDERS** Defendants, once they have been served, to reply to Plaintiff’s
26 Complaint within the time provided by the applicable provisions of Federal Rule of Civil
27 Procedure 12(a). *See* 42 U.S.C. § 1997e(g)(2) (while a defendant may occasionally be
28 permitted to “waive the right to reply to any action brought by a prisoner confined in any

1 jail, prison, or other correctional facility under section 1983,” once the Court has
2 conducted its sua sponte screening pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b),
3 and thus, has made a preliminary determination based on the face on the pleading alone
4 that Plaintiff has a “reasonable opportunity to prevail on the merits,” the defendant is
5 required to respond); and

6 5. **ORDERS** Plaintiff, after service has been effected by the U.S. Marshal, to
7 serve upon Defendants, or, if appearance has been entered by counsel, upon Defendants’
8 counsel, a copy of every further pleading, motion, or other document submitted for the
9 Court’s consideration pursuant to Fed. R. Civ. P. 5(b). Plaintiff must include with every
10 original document he seeks to file with the Clerk of the Court, a certificate stating the
11 manner in which a true and correct copy of that document has been served on
12 Defendants or their counsel, and the date of that service. *See* CivLR 5.2. Any document
13 received by the Court which has not been properly filed with the Clerk or which fails to
14 include a Certificate of Service upon Defendants may be disregarded.

15 **IT IS SO ORDERED.**

16 DATED: November 18, 2020



17 HON. MICHAEL M. ANELLO
18 United States District Judge
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