

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Cuong Huy Dao v. M. Bravo, et al.

No. 1:25-cv-00970-HBK (PC), United States District Court for the Eastern District of California (December 5, 2025)

SUMMARY

The United States District Court for the Eastern District of California ordered Plaintiff Cuong Huy Dao to show cause why Defendants A. Gutierrez and M. Lopez should not be dismissed without prejudice for failure to provide sufficient information for service of process. The court gave Plaintiff 60 days to provide identifying information and warned that failure to respond or show cause would result in dismissal under Federal Rule of Civil Procedure 4(m).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 5, 2025
DOCKET	1:25-cv-00970-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se and in forma pauperis under 42 U.S.C. § 1983, was ordered to show cause why two unidentified and unserved defendants should not be dismissed for failure to provide sufficient information to effect service.
STANDARD OF REVIEW	Dismissal for failure to effect service under Federal Rule of Civil Procedure 4(m), including whether the plaintiff has shown good cause for the failure to serve.
PRECEDENTIAL VALUE	Nonprecedential district court order; precedential status is not stated in the opinion.

TOPICS

- service of process
- civil procedure
- prisoners rights
- section 1983
- police misconduct

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court should provide Plaintiff an opportunity to show cause and furnish additional information before dismissing Defendants A. Gutierrez and M. Lopez for failure to effect service under Federal Rule of Civil Procedure 4(m).
2. Whether a pro se prisoner proceeding in forma pauperis must provide the U.S. Marshal with accurate and sufficient information to identify and locate a defendant, and whether dismissal without prejudice is appropriate when the plaintiff fails to do so.

HOLDINGS

1. The court must give Plaintiff an opportunity to show cause and provide additional identifying information before dismissing Defendants A. Gutierrez and M. Lopez for failure to effect service.

KEY QUOTATIONS

“So long as the prisoner has furnished the information necessary to identify the defendant, the marshal’s failure to effect service is ‘automatically good cause’” (at 2)

“If Plaintiff is unable to provide the Marshal with the necessary information to identify and locate these Defendants, Defendants A. Gutierrez and M. Lopez shall be dismissed from this action, without prejudice.” (at 3)

FACTUAL BACKGROUND

Plaintiff is an incarcerated pro se litigant proceeding in forma pauperis in a § 1983 action alleging, among other claims, Eighth Amendment excessive use of force. The U.S. Marshal attempted to electronically serve Defendants A. Gutierrez and M. Lopez using the information Plaintiff provided but was unable to identify either defendant, and additional efforts were unsuccessful. The court therefore required Plaintiff to provide further information, such as the approximate incident date, facility or building location, or physical identifying features.

PROCEDURAL HISTORY

The action proceeded on Eighth Amendment excessive-force and deliberate-indifference claims against multiple defendants. After the court directed service under its electronic-service pilot program, the U.S. Marshal reported that Defendants A. Gutierrez and M. Lopez could not be identified for service despite further efforts. The court issued this order giving Plaintiff sixty days to provide additional identifying information or show cause why those defendants should not be dismissed without prejudice under Federal Rule of Civil Procedure 4(m).

DISPOSITION

other

CASES CITED

- Puett v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990)
- Walker v. Sumner, 14 F.3d 1415, 1421-1422 (9th Cir. 1994)
- Sandin v. Connor, 515 U.S. 472, 115 (1995)

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