UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DERRICK RABBI STRONG, 1:04-cv-5331 AWI YNP GSA (PC)

Plaintiff, ORDER

v.

H. VILLAPUEDA,

Defendant.

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On March 31, 2008, a summons was returned as unexecuted, indicating that the U.S. Marshal was unable to locate Defendant H. Villiapueda.

Under Federal Rule of Civil Procedure 4(m):

> If a defendant is not served within 120 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

The Court has ordered service to be made by a U.S. Marshall pursuant to Federal Rule of Civil Procedure 4(c)(3) because Plaintiff is proceeding in forma pauperis under 28 U.S.C. § 1915.

As noted above, the U.S. Marshal returned the summons to be served on Defendant Viilapueda to the Court unexecuted and indicated that Defendant Villapueda could not be located at the prison facility using the information provided by Plaintiff. The unexecuted summonses also indicated that Defendants could not be located at CSP Corcoran. Attached to the return of service, however, is a letter from the Litigation Coordinator at CSP Corcoran to the U.S. Marshal Service,

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indicating that H. Villapueda may be located at Folsom State Prison.

The Court HEREBY ORDERS that the U.S. Marshal is directed to contact the Litigation Coordinator at Folsom State Prison in order to attempt service upon Defendant Villapueda. Should the U.S. Marshal be unable to locate Defendant Villapueda, the court should be so informed within 90 days of the date of service of this order.

IT IS SO ORDERED.

Dated: February 19, 2010 **/s/ Gary S. Austin**
UNITED STATES MAGISTRATE JUDGE