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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA
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10 JESSE WASHINGTON,

11 Plaintiff,

12 vs.

13 J. W. ANDREWS, et al.

14 Defendants.
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No. 1:07-CV-886-CKJ

ORDER

16 On May 21, 2009, this Court ordered that Defendants were required to file an answer
17 and set forth a procedure for service of Defendants. On June 25, 2009, the Summonses were
18 returned unexecuted as to Defendants C. Lopez and B. Hernandez. On August 13, 2009, this
19 Court issued an Order regarding additional service attempts on Defendants C. Lopez and B.
20 Hernandez. Additionally, the Court stated:

21 If Plaintiff does not either obtain a waiver of service of the summons or complete
22 service of the Summons and Complaint on a Defendant within 120 days of the filing
23 of this Order, the action may be dismissed as to each Defendant not served.
24 Fed.R.Civ.P. 4(m).

25 August 13, 2009, Order, p. 2. On December 17, this Court ordered Plaintiff to show cause
26 why this case should not be dismissed without prejudice as to B. Hernandez.¹ Plaintiff
27 responded to the order to show cause by referring to correspondence to the Attorney

28 ¹The Court also ordered Plaintiff to show cause why the case should not be dismissed
as to C. Lopez. The Court subsequently dismissed C. Lopez.

1 General's Office seeking a waiver of service as to B. Hernandez. On February 9, 2010, this
2 Court issued an Order directing the U.S. Marshal's Office to file a Summons Returned
3 Executed, a Summons Returned Unexecuted, a Waiver of Service Returned Executed, or a
4 status report as to the service of B. Hernandez.

5 On February 22, 2010, the Summons for B. Hernandez was returned unexecuted. The
6 return includes a September 21, 2009, notation, "per KVSP not employed NO FWD
7 LOCATION[.]" an October 25, 2009, notation, "FWD TO CSP CORCORAN[.]" and a
8 February 1, 2010, notation, "waiver not ret'd, assigned personal svc, fwd fresno." The return
9 also includes a February 9, 2010, notation, "Refused by Anthony Lane (Lit coord)[.]; says
10 person not at prison[.]"

11 On March 1, 2010, the Court ordered Plaintiff to show cause why this case should not
12 be dismissed without prejudice as to B. Hernandez pursuant to Rule 4(m), Fed.R.Civ.P., by
13 filing a writing with this Court on or before March 31, 2010. On March 24, 2010, Plaintiff
14 filed a response in which he asserts that he and the Court are being deceived by CSP-COR
15 officials asserting they have no forwarding address. Plaintiff requests the Court use its
16 inherent authority to compel counsel for co-defendants to produce a current address for B.
17 Hernandez.


18 The notations on the unexecuted return appear to indicate that B. Hernandez does or
19 did work for the California State Prisons.

20 The Office of the California Attorney General has filed an Answer on behalf of co-
21 defendants. The Court finds, in order to facilitate service, it is appropriate to have counsel
22 for co-defendants provide to the Court under seal the last known address of B. Hernandez if
23 the information is known to him, is in his possession, or is under his control. The Court will
24 provide the last known address to the United States Marshals Service under seal with
25 directions to the United States Marshals Service to take adequate measures to preserve
26 confidentiality. If counsel does not have any information within his possession or control
27 regarding B. Hernandez' last known address, counsel shall so notify the Court.

28 Accordingly, IT IS ORDERED counsel for co-defendants shall provide to the Court

1 UNDER SEAL the last known address of Defendant B. Hernandez if the information is
2 known to him, is in his possession, or is under his control. Counsel shall provide this
3 information within thirty (30) days of this Order. Alternatively, counsel for co-defendants
4 shall notify the Court within thirty (30) days of this Order that counsel does not possess or
5 have control over any information regarding the last known address of Defendant B.
6 Hernandez.

7 DATED this 5th day of April, 2010.

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12 Cindy K. Jorgenson
13 United States District Judge
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