

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DANNY JAMES COHEA,

Plaintiff,

v.

D. ADAMS, et al.,

Defendants.

CASE NO. 1:08-cv-01186-LJO-SKO PC

ORDER TO SHOW CAUSE WHY
DEFENDANTS N. HICINBOTHEM AND N.
KUSH SHOULD NOT BE DISMISSED FROM
THIS ACTION

SHOW CAUSE RESPONSE DUE WITHIN 30
DAYS

Plaintiff Danny James Cohea (“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 June 21, 2010, the Court ordered the U.S. Marshal to serve Defendants N. Hicinbothem and N. Kush with a copy of Plaintiff’s complaint and a summons. On August 25, 2010, the summonses were returned unexecuted because N. Hicinbothem and N. Kush could not be located at the address provided by Plaintiff and the defendants could not be located using information provided by the California Department of Corrections and Rehabilitations.

Although Plaintiff is proceeding in forma pauperis and is entitled to the services of the U.S. Marshal to effect service of process of his complaint, it is ultimately his responsibility to provide the U.S. Marshal with sufficient information to locate and serve defendants. Pursuant to Federal Rule of Civil Procedure 4(m), the Court must dismiss Plaintiff’s claims against any unserved defendants without prejudice if service is not effected within a specified time. Dismissal of the unserved defendants is proper when Plaintiff fails to provide the U.S. Marshal with sufficient information to effect service of process. Walker v. Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (quoting Puett

1 v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990)), abrogated on other grounds by Sandin v. Connor,
2 515 U.S. 472 (1995).

3 Accordingly, Plaintiff is HEREBY ORDERED TO SHOW CAUSE within thirty (30) days
4 why Defendants N. Hicinbothem and N. Kush should not be dismissed.¹

5 Plaintiff is forewarned that the failure to show cause may result in the dismissal of
6 Defendants N. Hicinbothem and N. Kush from this action.

7
8 IT IS SO ORDERED.

9 **Dated: January 25, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 _____
¹Should Plaintiff have updated information on the whereabouts of Defendants N. Hicinbothem and N. Kush,
he should provide it to the Court at this time.