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6	UNITED STATES DISTRICT COURT	
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8	EASTERN DISTRICT OF CALIFORNIA	
9	MICHAEL ANDRE TODD,	CASE NO. 1:08-cv-01504-SKO PC
10	Plaintiff,	ORDER DENYING MOTION
11	v.	(Doc. 33)
12	ANTHONY L. HEDGPETH, et al.,	and
13 14	Defendants.	ORDER TO SHOW CAUSE WHY DEFENDANT DILL SHOULD NOT BE DISMISSED FROM THIS ACTION
15		SHOW CAUSE DUE WITHIN 30 DAYS
16		/
17	Plaintiff Michael Andre Todd ("Plaintiff") is a state prisoner proceeding pro se and in forma	
18	pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On January 21, 2010, Plaintiff filed	
19	a motion "seeking a court order of service for 'associate warden-Dill (or Dell), chief medical,	
20	defendant."" (Doc. #33.)	
21	Plaintiff's motion seeks "a court order of service, from the Department of Correction[sic] and	

Rehabilitation, to provide the U.S. Marshal,[sic] the employment address or home address, business
phone or home phone number, to serve 'associate warden-Dill/or Dell, chief medical' at Kern Valley
State Prison, Defendant in this complaint." (Pl.'s Mot. Seeking a Court Order of Service 1:20-26,
ECF No. 33.) Defendant Dill has not been served and has not otherwise made an appearance in this
action. On August 26, 2009, a summons was returned unexecuted as to Defendant Dill, indicating
that Dill was no longer employed at Kern Valley State Prison and there was no forwarding
information available.

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"[A]n incarcerated pro se plaintiff proceeding in forma pauperis is entitled to rely on the 1 2 U.S. Marshal for service of the summons and complaint and ... should not be penalized by having his action dismissed for failure to effect service where the U.S. Marshal or the court clerk has failed 3 to perform his duties." Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994) (quoting Puett v. 4 5 Blandford, 912 F.2d 270, 275 (9th Cir. 1990)), abrogated on other grounds by Sandin v. Connor, 515 U.S. 472 (1995). However, where a pro se plaintiff fails to provide the Marshal with accurate and 6 7 sufficient information to effect service of the summons and complaint, the court's sua sponte dismissal of the unserved defendants is appropriate. Id. at 1421-22. The information provided by 8 9 Plaintiff was insufficient to allow the U.S. Marshal to locate and serve Defendant Dill. There is no 10 indication that the failure to effect service was due to the U.S. Marshal's failure to perform his or her duties. 11 The Court will deny Plaintiff's motion. The unexecuted summons indicated that Defendant 12 13 Dill was no longer employed at Kern Valley State Prison and there was no information regarding his whereabouts in the "CDC locator" database. Thus it appears that CDCR does not have any 14 information regarding Defendant Dill's whereabouts. It is Plaintiff's responsibility to provide the 15 U.S. Marshal with the information necessary to effect service of process on Defendant Dill. The 16 17 Court will order Plaintiff to show cause why Defendant Dill should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m) due to Plaintiff's failure to effect service of process on Dill.¹ 18

Accordingly it is HEREBY ORDERED that:

1. Plaintiff's January 21, 2010 motion is DENIED; and

Plaintiff shall SHOW CAUSE within thirty (30) days of the date of service of this order why Defendant Dill should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m) due to Plaintiff's failure to effect service of process.

24 IT IS SO ORDERED.

Dated: September 1, 2010

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/s/ Sheila K. Oberto UNITED STATES MAGISTRATE JUDGE

¹If Plaintiff has any updated information regarding Defendant Dill's whereabouts, he should provide that information to the Court.