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8	UNITED STA	TES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA	
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11	CURTIS RENEE JACKSON,	) Case No.: 1:11-cv-00080-LJO-BAM PC
12	Plaintiff,	) ) ORDER TO SHOW CAUSE WHY DEFENDANT
13	v.	<ul> <li>) SAMONTE SHOULD NOT BE DISMISSED</li> <li>) FROM THIS ACTION FOR FAILURE TO</li> </ul>
14	Y. A. YATES, et al.,	<ul> <li>PROVIDE SUFFICIENT INFORMATION TO</li> <li>EFFECTUATE SERVICE (ECF No. 102)</li> </ul>
15	Defendants.	
16		) THIRTY-DAY DEADLINE _)
17	I. Introduction	
18	Plaintiff Curtis Renee Jackson, ("Plain	ntiff") is a state prisoner proceeding se and in forma
19	pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on	
20	January 18, 2011. (ECF No. 1.) This action proceeds on Plaintiff's second amended complaint	
21	against Defendant Mendez for excessive force in violation of the Eighth Amendment; and against	
22	Defendants Daley, Samonte, Nichols, Valdez	and Gonzales for failure to intervene in violation of the
23	Eighth Amendment.	
24	II. Service by the United States	Marshal
25	On June 7, 2012, following screening of the second amended complaint, the Court issued an	
26	order directing the United States Marshal to initiate service of process in this action upon Defendants	
27	Daley, Gonzales, Mendez, Nichols, Samonte and Valdez. (ECF No. 33.) On January 15, 2014, the	
28	United States Marshal filed a return of service unexecuted as to Defendant Samonte. (ECF No. 102.)	

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Federal Rule of Civil Procedure 4(m) provides as follows:

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.

Fed.R.Civ.P. 4(m).

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7 In cases involving a plaintiff proceeding in forma pauperis, the Marshal, upon order of the court, shall serve the summons and the complaint. Fed. R. Civ. P. 4(c)(3). "[A]n incarcerated pro se 8 9 plaintiff proceeding in forma pauperis is entitled to rely on the U.S. Marshal for service of the 10 summons and complaint, and ... should not be penalized by having his or her action dismissed for 11 failure to effect service where the U.S. Marshal or the court clerk has failed to perform the duties 12 required of each of them .... "Puett v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990). "So long as the prisoner has furnished the information necessary to identify the defendant, the marshal's failure to 13 effect service is 'automatically good cause ....'" Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 14 15 1994), abrogated on other grounds by Sandin v. Connor, 515 U.S. 472, 115 S.Ct. 2293, 132 L.Ed.2d 16 418 (1995). However, where a pro se plaintiff fails to provide the Marshal with accurate and 17 sufficient information to effect service of the summons and complaint, the Court's sua sponte 18 dismissal of the unserved defendant is appropriate. Walker, 14 F.3d at 1421-22.

In this case, Plaintiff has not provided sufficient information to identify Defendant Samonte
and to locate this defendant for service of process. (ECF No. 102.) If Plaintiff is unable to provide the
Marshal with additional information, Defendant Samonte shall be dismissed from this action, without
prejudice. Pursuant to Rule 4(m), the court will provide Plaintiff with the opportunity to show cause
why Defendant Samonte should not be dismissed from the action at this time.

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## III. Conclusion and Order

Based on the foregoing, it is HEREBY ORDERED that:

26 1. Within thirty (30) days from the date of service of this order, Plaintiff shall show cause
27 why Defendant Samonte should not be dismissed from this action; and

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1	2. <u>The failure to respond to this order or the failure to show cause will result in the</u>	
2	dismissal of Defendant Samonte from this action.	
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4	IT IS SO ORDERED.	
5	Dated: February 13, 2014 /s/ Barbara A. McAuliffe	
6	UNITED STATES MAGISTRATE JUDGE	
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