

1 cannot be located. 28 U.S.C. 1915(d); Fed. R. Civ. P. 4(c)(3). Accordingly, the Court
2 ordered USM to re-attempt service on Defendant Williams. (ECF No. 22.)

3 On October 4, 2017, service on Defendant Williams was, again, returned
4 unexecuted. (ECF No. 23.) The Marshal wrote: "The office of [California Department of
5 Corrections and Rehabilitation (CDCR)] was contacted on 8-28-17. They made multiple
6 attempts to locate this employee but have no record of any employee by that name.
7 They will not accept service and are unable to provide any additional information. 10-4-
8 2017 -- Additional attempts were made by all departments at '1515' address - unable to
9 locate." (Id.)

10 The Marshals Service has exhausted the avenues available to it to locate and
11 serve Defendant Williams. Walker v. Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994).

12 Accordingly, the Court ordered Plaintiff to show cause why Defendant Williams
13 should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). (ECF No. 24.)
14 Plaintiff has responded to the Order to show cause (ECF No. 28), but he does not
15 provide good cause to avoid dismissal.

16 Plaintiff provides no further information to assist in the identification or location of
17 Defendant Williams. (Id.) He does suggest that **if** Williams is deceased, the Court should
18 substitute a representative of his estate. (Id.) There is no evidence Williams is deceased.

19 Plaintiff would like the Court to allow additional time to allow continued efforts at
20 service. However, absent some reason to think delay could be productive (and there is
21 no such reason here), this case must move forward.

22 Accordingly, the Marshals Service having exhausted avenues available to it to
23 locate and serve Defendant Williams and given the absence of any suggested
24 alternatives for finding and serving Williams, he should be dismissed from this action
25 pursuant to Federal Rule 4(m).

26 For the foregoing reasons, IT IS HEREBY RECOMMENDED that Defendant L.
27 Williams be dismissed from this action without prejudice pursuant to Federal Rule of Civil
28 Procedure 4(m).

