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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURICE WOODSON,
Plaintiff,
vs.
M. WEISMAN, et al.,
Defendants.

No. 2:08-CV-01965-RRC

**ORDER TO SHOW CAUSE WHY DEFENDANT
DHESI SHOULD NOT BE DISMISSED**

On August 21, 2008, Maurice Woodson (“Plaintiff”), proceeding *pro se*, filed a prisoner civil rights Complaint pursuant to 42 U.S.C. § 1983 against five employees of the California State Prison-Sacramento County. (Doc. # 1.) In an Order filed September 18, 2009, this Court determined that the Complaint stated a cognizable claim for relief against defendants Weisman, Dhesi, Fairbourn, and Burns. (Doc. # 11.) On March 25, 2010, the Court ordered service by the United States Marshal on the defendants, including H. Dhesi. (Doc. # 15.)

On August 18, 2010, the summons was returned unexecuted as to defendant H. Dhesi.¹ (Doc. # 30.) The form indicates that the deputy was unable to locate Dhesi and that mail was not deliverable to Dhesi at the address provided.

¹ The Court notes that on July 22, 2010, Plaintiff inquired whether Dhesi had been served. (Doc. # 24.)

1 Rule 4(c) of the Federal Rules of Civil Procedure requires the plaintiff to have the summons
2 and complaint served upon the defendant within the time allowed by Rule 4(m). "A federal court is
3 without personal jurisdiction over a defendant unless the defendant has been served in accordance
4 with [Rule 4]." *Benny v. Pipes*, 799 F.2d 489, 492 (9th Cir. 1986); *see Oyama v. Sheehan*, 253 F.3d
5 507, 512 (9th Cir. 2001). If a defendant is not served within 120 days after the complaint is filed,
6 the court must dismiss the action without prejudice against the defendant unless good cause is
7 shown for the failure. Fed. R. Civ. P. 4(m). Although Rule 4(c)(3) provides that a court may order
8 the service be made by a marshal, particularly if the plaintiff is authorized to proceed *in forma*
9 *pauperis*, this does not alleviate the plaintiff's burden to provide the U.S. Marshal with the address
10 of the defendant. *See Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994) (noting that a *pro se*
11 plaintiff proceeding *in forma pauperis* must furnish information necessary to identify the defendant
12 to effect service), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995).

13 The Complaint was filed on August 21, 2008. As of the filing of this Order, which is well
14 past the 120 day limitation, Dhesi has not been successfully served. Plaintiff is hereby ordered to
15 show cause why Dhesi should not be dismissed from this action for Plaintiff's failure to provide the
16 proper address information.

17 CONCLUSION

18 IT IS HEREBY ORDERED that Plaintiff must show good cause for Plaintiff's failure to
19 provide the address information for H. Dhesi. Plaintiff must submit briefing to the Court of no more
20 than 10 pages in length, no later than 30 days after the filing of this Order. Failure to do so may
21 result in dismissal of the action against H. Dhesi.

22 DATED: October 29, 2010.

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25 /s/ Richard R. Clifton
26 RICHARD R. CLIFTON
27 UNITED STATES CIRCUIT JUDGE
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