

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

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

WILLIE SCHOBY,

Plaintiff,

No. 2:10-cv-0582 JFM (PC)

vs.

P. PINKERTON,

Defendant.

ORDER

_____ /

Plaintiff is proceeding in forma pauperis pursuant to 28 U.S.C. § 1915. By order filed September 23, 2010 the court determined that plaintiff's complaint states a cognizable claim for relief against defendant Pinkerton and ordered plaintiff to provide information for service of process on form USM-285, a completed summons, sufficient copies of the complaint for service, and a notice of compliance. Service directed to said defendant has twice been returned unexecuted.

On March 23, 2011, plaintiff filed a request for the United States Marshal to serve defendant Pinkerton. Plaintiff contends that he has exhausted all means available to him to find an appropriate address for service of process on said defendant and he now seeks further assistance in locating said defendant. To that end, plaintiff has identified defendant Pinkerton as an individual who worked as a dietary clerk for the medical department at California State

1 Prison-Solano and California Medical Facility in Vacaville, California. He has attached a
2 memorandum dated September 18, 2008, and signed by “P. Pinkerton, RD, FAI”.

3 Pursuant to this court’s prior orders, if defendant did not return a waiver of service
4 of summons within sixty days from the date of mailing the request for waiver, the United States
5 Marshal was to personally serve process on defendant Pinkerton, “command all necessary
6 assistance from the California Department of Corrections and Rehabilitation (CDC) to execute
7 this order” and “maintain the confidentiality of all information provided by the CDC pursuant to”
8 that order. See Order filed October 18, 2010 at ¶ 5. According to the information provided on
9 the USM-285 form returned by the U.S. Marshal and filed on February 16, 2011, on November
10 19, 2010, the prison facility advised the U.S. Marshal on November 19, 2010, that no such
11 person was employed there, and on February 15, 2011, a determination was made that the
12 individual is not listed in the CDC Locator.

13 Good cause appearing, IT IS HEREBY ORDERED that:

14 1. The Clerk of the Court is directed to serve a copy of plaintiff’s March 23, 2011
15 request and attached exhibits together with a copy of this order on Supervising Deputy Attorney
16 General Monica N. Anderson and on the United States Marshal.

17 2. Supervising Deputy Attorney General Anderson shall take all steps necessary
18 to assist the United States Marshal in locating an address for service of process on defendant P.
19 Pinkerton and shall report to the court within twenty days whether she has been able to provide a
20 valid address to the U.S. Marshal and, if not, why no address can be found.

21 ////

22 ////

23 ////

24 ////

25 ////

26 ////

1 3. The U.S. Marshal shall maintain the confidentiality of any service address
2 information provided by Supervising Deputy Attorney General Anderson. Should an address be
3 provided, the U.S. Marshal shall, upon receipt of that address, take all steps necessary to request
4 a waiver of service and/or to personally serve defendant Pinkerton in accordance with the
5 provisions of this court's October 18, 2010 order.

6 DATED: April 29, 2011.

7
8 
9 UNITED STATES MAGISTRATE JUDGE

10 /12
11 scho0582.fis

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26