

United States District Court  
For the Northern District of California

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  
27  
28

\*E-Filed 10/20/15\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

TYRONE YOUNGS,  
Plaintiff,

No. C 14-4278 RS (PR)

**ORDER RE: DIRECTIONS TO  
PLAINTIFF**

v.

THE PEOPLE OF THE STATE OF  
CALIFORNIA, et al.,  
Defendants.

Defendant K.A. Thompson remains unserved, his summons having been returned as unexecuted. San Quentin authorities state that no one by that name has ever worked for that institution. (Docket No. 32.) Plaintiff now asserts that the defendant’s name is Thompson K. (Docket Nos. 33 and 34.) This is not sufficient for the Marshal to effect service.

Plaintiff is directed to comply with the following. He must provide the defendant’s last name so that the complaint can be served. In cases where the plaintiff proceeds *in forma pauperis*, the “officers of the court shall issue and serve all process.” 28 U.S.C. § 1915(d). The Court must appoint the Marshal to effect service, *see* Fed. R. Civ. P. 4(c)(2), and the Marshal, upon order of the Court, must serve the summons and the complaint, *see Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994). Although a plaintiff who is incarcerated and

No. C 14-4278 RS (PR)  
ORDER RE: DIRECTIONS TO PLAINTIFF

1 proceeding *in forma pauperis* may rely on service by the Marshal, such plaintiff “may not  
2 remain silent and do nothing to effectuate such service”; rather, “[a]t a minimum, a plaintiff  
3 should request service upon the appropriate defendant and attempt to remedy any apparent  
4 defects of which [he] has knowledge.” *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir.  
5 1987).

6 Here, plaintiff’s complaint has been pending for over 120 days, and, consequently,  
7 absent a showing of “good cause,” is subject to dismissal without prejudice as to the  
8 unserved defendant, Thompson. *See* Fed. R. Civ. P. 4(m). Because plaintiff has not  
9 provided sufficient information to allow the Marshal to locate and serve the above-referenced  
10 defendant, plaintiff must remedy the situation or face dismissal of his claims against him.  
11 *See Walker*, 14 F.3d at 1421–22 (holding prisoner failed to show cause why prison official  
12 should not be dismissed under Rule 4(m) where prisoner failed to show he had provided  
13 Marshal with sufficient information to effectuate service).

14 Accordingly, plaintiff must either himself serve the unserved defendant with the  
15 summons and complaint, or provide the Court with the complete name and current location  
16 of the defendant so that the Marshal is able to serve such defendant. If plaintiff fails to  
17 effectuate service, or to provide the Court with an accurate current location or other  
18 information for such defendant, on or before November 25, 2015, plaintiff’s claims against  
19 the unserved defendant will be dismissed without prejudice pursuant to Rule 4(m) of the  
20 Federal Rules of Civil Procedure.

21 **IT IS SO ORDERED.**

22 DATED: October 20, 2015

23   
24 RICHARD SEEBORG  
25 United States District Judge  
26  
27  
28