

1 IN THE UNITED STATES DISTRICT COURT
2
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA

4
5 JUAN VILLA RAMIREZ,

No. C 07-04681 SBA (PR)

6 Plaintiff,

**NOTICE REGARDING INABILITY TO
SERVE DEFENDANTS SAYER,
POLUZZA, KHOLSLA, HILL-
CULPEPPER, GUILDERSLEEVES,
MORROW AND TERRANU**

7 v.

8 JAMES TILTON, et al.,

9 Defendants.

10 Service has been ineffective on the following Defendants: former San Quentin State Prison
11 (SQSP) Physicians Sayer, Poluzza and Kholsla; as well as former SQSP Medical Technical
12 Assistants Hill-Culpepper, Guildersleeves, Morrow and Terranu. The United States Marshal's
13 Office has informed the Court that service could not be completed on these Defendants. The Court
14 has been informed that the prison litigation coordinator was unable to locate the defendants.

15 While Plaintiff may rely on service by the United States Marshal, "a plaintiff may not remain
16 silent and do nothing to effectuate such service. At a minimum, a plaintiff should request service
17 upon the appropriate defendant and attempt to remedy any apparent defects of which [he] has
18 knowledge." Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). If the marshal is unable to
19 effectuate service and the plaintiff is informed, the plaintiff must seek to remedy the situation or face
20 dismissal of the claims regarding that defendant under Federal Rule of Civil Procedure 4(m). See
21 Fed. R. Civ. P. 4(m) (If service of the summons and complaint is not made upon a defendant in 120
22 days after the filing of the complaint, the action must be dismissed without prejudice as to that
23 defendant absent a showing of "good cause."); see also Walker v. Sumner, 14 F.3d 1415, 1421-22
24 (9th Cir. 1994) (prisoner failed to show cause why prison official should not be dismissed under
25 Rule 4(m) because prisoner did not prove that he provided marshal with sufficient information to
26 serve official).

1 No later than **thirty (30) days** from the date of this Order, Plaintiff must provide the Court
2 with a current addresses for Defendants Sayer, Poluzza, Kholsla, Hill-Culpepper, Guildersleeves,
3 Morrow and Terranu. Plaintiff should review the federal discovery rules, Rules 26-37 of the Federal
4 Rules of Civil Procedure, for guidance about how to determine the current address of these
5 Defendants.

6 **If Plaintiff fails to provide the Court with the current addresses of Defendants Sayer,**
7 **Poluzza, Kholsla, Hill-Culpepper, Guildersleeves, Morrow and Terranu within the thirty-day**
8 **deadline, all claims against these Defendants will be dismissed without prejudice under Rule**
9 **4(m).**

10 IT IS SO ORDERED.

11 DATED: 5/24/10


SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 JUAN VILLA RAMIREZ,

5 Plaintiff,

6 v.

7 JAMES TILTON et al,

8 Defendant.

Case Number: CV07-04681 SBA

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
10 Court, Northern District of California.

11 That on May 24, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
14 located in the Clerk's office.

15 Juan Villa Ramirez T-24667
16 California State Prison - San Quentin
17 2 A/C 6
18 San Quentin, CA 94974

19 Dated: May 24, 2010

20 Richard W. Wieking, Clerk
21 By: LISA R CLARK, Deputy Clerk