

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

3
4 BERNARD HAMILTON,

No. C 09-00648 CW (PR)

5 Plaintiff,

ORDER DISMISSING WITHOUT
PREJUDICE CLAIMS AGAINST
DEFENDANT C. DOLE

6 v.

7 G. THOMSON, et al.,

8 Defendants.
9 _____/

10 Plaintiff, a state prisoner, filed the present pro se prisoner
11 complaint under 42 U.S.C. § 1983. The Court issued an Order of
12 Service.

13 Defendant C. Dole has not been served in this action. The
14 Court has been informed that the litigation support unit at the
15 California Department of Corrections and Rehabilitation, Prison
16 Health Services has been unable to locate Defendant Dole even after
17 making "several diligent attempts to locate the named defendant
18 through our Department's Human Resources Unit, Contractor Unit, and
19 the Medical Department at California State Prison - San Quentin."
20 (Letter from Cynthia Kerr dated July 21, 2010 at 1.) Cynthia Kerr
21 from the litigation support unit further stated, "We were advised
22 by each of these offices that there is no one by this name employed
23 in this Department." (Id.)

24 Plaintiff is responsible for providing the Court with current
25 addresses for all Defendants so that service can be accomplished.
26 See Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994); Sellers
27 v. United States, 902 F.2d 598, 603 (7th Cir. 1990).
28

1 Pursuant to Fed. R. Civ. P. 4(m), if a complaint is not served
2 within 120 days from the filing of the complaint, it may be
3 dismissed without prejudice for failure of service. When advised
4 of a problem accomplishing service, a pro se litigant must "attempt
5 to remedy any apparent defects of which [he] has knowledge."
6 Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). If the
7 marshal is unable to effectuate service through no fault of his
8 own, e.g., because the plaintiff failed to provide sufficient
9 information or because the defendant is not where the plaintiff
10 claims, and the plaintiff is informed, the plaintiff must seek to
11 remedy the situation or face dismissal. See Walker, 14 F.3d at
12 1421-22 (prisoner failed to show cause why claims against prison
13 official should not be dismissed under Rule 4(m) because prisoner
14 did not prove that he provided marshal with sufficient information
15 to serve official or that he requested that official be served);
16 see also Del Raine v. Williford, 32 F.3d 1024, 1029-31 (7th Cir.
17 1994) (prisoner failed to show good cause for failing to effect
18 timely service on defendant because plaintiff did not provide
19 marshal with copy of amended complaint until after more than 120
20 days after it was filed).

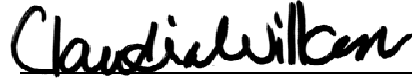
21 In an Order dated May 12, 2010, the Court informed Plaintiff
22 the service had been ineffective on Defendant Cole and directed
23 Plaintiff to provide the Court with a current address, necessary to
24 locate Defendant Cole within thirty days of the Order. Thirty days
25 have passed, and Plaintiff has failed to provide the Court with the
26 current address of Defendant Dole.

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Accordingly, all claims against Defendant Cole are DISMISSED
without prejudice under Rule 4(m).

IT IS SO ORDERED.

Dated: 11/24/2010



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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

4 BERNARD HAMILTON,

5 Plaintiff,

6 v.

7 G. THOMSON et al,

8 Defendant.

Case Number: CV09-00648 CW

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

15 Bernard Hamilton C-27300
16 San Quentin State Prison
17 San Quentin, CA 94964

Dated: November 24, 2010

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk