

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

DEMETRIUS A. WRIGHT,
Plaintiff,

v.

R. CARASCO, et al.,
Defendants.

No. C 10-00064 CW (PR)

ORDER GRANTING PLAINTIFF'S
MOTION TO DISMISS WITHOUT
PREJUDICE ALL CLAIMS AGAINST
DEFENDANT LVN HERNANDEZ

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

Defendant Licensed Vocational Nurse (LVN) Hernandez has not been served in this action. The Court has been informed that the litigation coordinator at Salinas Valley State Prison has been unable to locate Defendant Hernandez.

As Plaintiff is proceeding in forma pauperis (IFP), he is responsible for providing the Court with current addresses for all Defendants so that service can be accomplished. See Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994); Sellers v. United States, 902 F.2d 598, 603 (7th Cir. 1990).

Pursuant to Federal Rule of Civil Procedure 4(m), if a complaint is not served within 120 days from the filing of the complaint, it may be dismissed without prejudice for failure of service. When advised of a problem accomplishing service, a pro se litigant proceeding IFP must "attempt to remedy any apparent defects of which [he] has knowledge." Rochon v. Dawson, 828 F.2d

1 1107, 1110 (5th Cir. 1987). If the marshal is unable to effectuate
2 service through no fault of his own, e.g., because the plaintiff
3 failed to provide sufficient information, the plaintiff must seek
4 to remedy the situation or face dismissal. See Walker, 14 F.3d at
5 1421-22 (prisoner failed to show cause why complaint against prison
6 official should not be dismissed under Rule 4(m) because prisoner
7 did not prove that he provided marshal with sufficient information
8 to serve official or that he requested that official be served).

9 In an Order dated March 3, 2011, the Court informed Plaintiff
10 that service had been ineffective on Defendant Hernandez and
11 directed Plaintiff to provide the Court with the required
12 information necessary to identify Defendant Hernandez within thirty
13 days of the Order. Thirty days have passed, and Plaintiff has
14 failed to provide the Court with the aforementioned required
15 information. Instead, Plaintiff has filed a "Motion to Dismiss LVN
16 Hernandez From the Complaint Without Prejudice" (docket no. 21).

17 Accordingly, Plaintiff's motion (docket no. 21) is GRANTED and
18 all claims against Defendant Hernandez are DISMISSED without
19 prejudice under Rule 4(m).

20 This Order terminates Docket no. 21.

21 IT IS SO ORDERED.

22 Dated: 4/12/2012



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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

4 DEMETRIUS A. WRIGHT,

5 Plaintiff,

6 v.

7 R. CARASCO et al,

8 Defendant.

Case Number: CV10-00064 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 April 12, 2011, 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
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
14 receptacle located in the Clerk's office.

15 Demetrius Ahmed Wright T65802
16 Salinas Valley State Prison
17 P.O. Box 1050
18 Soledad, CA 93960

19 Dated: April 12, 2011

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