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E-FILED - 7/6/09

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

ROBERT LEE JENKINS, JR.,
Plaintiff,
v.
CORRECTIONAL OFFICER
CAPLAN, et al.,
Defendants.

No. C 02-5603 RMW (PR)
ORDER ADDRESSING SERVICE

Plaintiff, a state prisoner proceeding *pro se*, filed a civil rights complaint alleging violations of his federal constitutional rights by prison staff at the Correctional Training Facility in Soledad, California. Previously, the United States Marshal unsuccessfully attempted service upon these defendants Caplan, Thompson, Sandoval, Pedia, Ellenbracht, and Flores. The court ordered plaintiff to provide the court with the accurate and current locations of unserved defendants so that the Marshal was able to effect service. On March 4, 2009, plaintiff filed a response and added more specific information with respect to names and locations for defendants D. Caplan, C. Thompson, C. Sandoval, A. Padilla, R. Ellenbracht, and R. Flores. With this additional information, the court ordered service upon these defendants.

Since then defendants Thompson, Padilla, Ellenbracht and Flores appeared in the

1 action. The summons for defendant D. Caplan was returned unexecuted with the
2 comment that “[s]ubject no longer at the facility.” See Docket No. 92. Accordingly, this
3 defendant has not been served. **The clerk of the court shall send a copy of this order**
4 **to the litigation coordinator at Salinas Valley, who is requested to provide any**
5 **forwarding address information that is available with respect to this defendant.**

6 In addition, the summons as to defendant C. Sandoval was returned from the U.S.
7 Marshal’s office showing that C. Sandoval had not returned an acknowledgment of
8 service. Clerical staff at the court made inquiries and learned that according to Deputy
9 Attorney General Virginia Irene Papan, litigation coordinator at CTF Soledad did not
10 receive the summons for C. Sandoval. Accordingly, attorney Papan indicated she could
11 not make an appearance in this action on behalf of C. Sandoval. The foregoing suggests
12 that service of process was not accomplished. **Accordingly, the clerk of the court shall**
13 **re-issue summons and the United States Marshal shall serve, without prepayment of**
14 **fees, copies of the THIRD AMENDED COMPLAINT in this matter, all attachments**
15 **thereto, and copies of this order on Sergeant C. Sandoval at CTF-Soledad, last**
16 **employed at Central, First Watch.**

17 No later than **sixty (60) days** from the date he is served with the complaint,
18 defendant C. Sandoval shall file a motion for summary judgment or other dispositive
19 motion with respect to the claims in the third amended complaint found to be cognizable
20 in the previous court orders. Plaintiff’s opposition shall be filed no later than **thirty (30)**
21 **days** from the date defendant’s motion is filed. Plaintiff is reminded of the *Rand* notice
22 the court provided him with in the order issued on March 18, 2009. Defendants may file
23 a reply no later than **fifteen (15) days** after plaintiff’s opposition is filed.

24 IT IS SO ORDERED.

25 DATED: 7/2/09

26 
27 RONALD M. WHYTE
28 United States District Judge