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E-FILED - 9/11/08

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

DAVID LITMON, JR.,)	No. C 03-2054 RMW (PR)
)	
Plaintiff,)	ORDER DENYING MOTION
)	FOR SANCTIONS;
vs.)	ADDRESSING UNSERVED
)	DEFENDANT
SANTA CLARA COUNTY, et al.,)	
)	
Defendants.)	(Docket No. 61)
)	
_____)	

Plaintiff, an inmate proceeding in forma pauperis, filed this pro se civil rights action under 42 U.S.C. § 1983 when he was civilly confined at the Santa Clara County Jail while awaiting trial proceedings under California’s Sexually Violent Predators Act, California Welfare & Institutions Code § 6600 et seq. (“SVPA”). Plaintiff has filed a motion for sanctions against defendants pursuant to Rule 11 of the Federal Rules of Civil Procedure. The basis for plaintiff’s motion is his allegation that an unnamed employee of the Santa Clara County Department of Corrections (“DOC”) “internal affairs department,” who is not a party to this action, falsely informed the United States Marshal that defendant K. South was unknown to the DOC. Even if plaintiff’s allegation is true, the court will not sanction the defendants or defendants’ attorney for the alleged conduct of an individual who is not a party to this action. Accordingly, plaintiff’s motion for sanctions (Docket No. 61) is DENIED.

1 The United States Marshal was unable to serve defendant South. If defendants
2 or defendants' attorney know the current location for defendant Officer K. South
3 (badge number 2613), they shall provide such information to the court within **14 days**
4 of the date this order is filed. Such information may be submitted to the court under
5 seal, and need not be provided to plaintiff.¹ The Marshal will then be directed to
6 attempt service of South again. If defendants or their attorney do not possess such
7 information, they shall so notify the court, also within **14 days** of the date this order is
8 filed. If defendants or their counsel notify the court that they are unable to provide
9 South's location information to the court, plaintiff must either serve South himself,
10 provide the court with South's accurate current location, or show cause why he cannot,
11 within **45 days** of the date this order is filed, or the claims against defendant South will be
12 subject to dismissal without prejudice under Rule 4(m) of the Federal Rules of Civil
13 Procedure.

14 IT IS SO ORDERED.

15 DATED: 9/10/08

Ronald M. Whyte

RONALD M. WHYTE
United States District Judge

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27 ¹For security reasons, defendants have objected to plaintiff's request to provide the
28 address of South, a DOC employee, directly to plaintiff.