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E-FILED - 9/29/08

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

STEVEN OWENS,)	No. C 06-4778 RMW (PR)
)	
Plaintiff,)	ORDER DIRECTING PLAINTIFF TO PROVIDE
)	LOCATION INFORMATION FOR UNSERVED
v.)	DEFENDANT SALAZAR
)	
A. PADILLA, et. al.,)	
)	
Defendants.)	
_____)	

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against prison officials at the Correctional Training Facility (“CTF”) in Soledad, California. On August 22, 2008, the court granted defendants’ motion to dismiss as to all claims except for plaintiff’s Eighth Amendment claims for the use of excessive force against Defendants Padilla, Salazar, Edmundson, Miller and Schlosser. As the Marshal was unable to serve defendant Schlosser at CTF, where plaintiff indicated he was located, plaintiff was ordered to provide the court with Schlosser’s accurate and current location information, such that the Marshal is able to effect service upon him within thirty days or face dismissal of the claims against Schlosser pursuant to Rule 4(m) of the Federal Rules of Civil Procedure; the dismissal will be without prejudice to plaintiff refiling his complaint with such information.

In the same order, the court noted that defendant Salazar had also not appeared, and the California Attorney General had indicated that Salazar had not been served. This court’s docket

1 indicated that the Marshal had executed summons against Salazar, however, and based on this
2 entry the court ordered the California Attorney General, who represents Miller, Padilla and
3 Edmundson to notify the court whether or not he would be appearing on behalf of Salazar. The
4 California Attorney General's Office has written to the court and attached thereto a copy of the
5 summons returned by the Marshal. The summons indicates that the Marshal had not in fact
6 executed it, and Salazar has not been served, because no "A.S. Salazar" has ever worked at
7 CTF.¹ As a result, as with defendant Schlosser, plaintiff must also provide the correct current
8 location of defendant Salazar in order for the Marshal to be able to effectuate service upon him.

9 Accordingly, within **thirty (30) days** of the date this order is filed, Plaintiff must provide
10 the court with defendant Salazar's accurate and current location information, such that the
11 Marshal is able to effectuate service upon him. If plaintiff fails to do so, his claims against
12 Salazar will be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure; the
13 dismissal will be without prejudice to plaintiff refiling his complaint with such information.

14 IT IS SO ORDERED.

15 DATED: 9/29/08


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17 RONALD M. WHYTE
18 United States District Judge
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28 ¹Plaintiff identified defendant Salazar as "A.S. Salazar." Attached to the summons is a letter from the CTF litigation coordinator saying that an "A. Salazar" works there, but he has no middle initial, and he is was not involved in the events alleged in the complaint.