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E-FILED - 7/8/09

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

RICHARD GARY HALL, JR.,)	No. C 07-3233 RMW (PR)
Plaintiff,)	
vs.)	ORDER GRANTING
)	PLAINTIFF'S MOTION TO
)	COMPEL SERVICE UPON
)	DEFENDANT R. QUINTERO
JAMES TILTON, et al.,)	
Defendants.)	
_____)	(Docket No. 84)

On March 26, 2008, plaintiff, a California prisoner proceeding *pro se*, filed the instant second amended civil rights complaint pursuant to 42 U.S.C. § 1983. On October 16, 2008, the court ordered service of the complaint on certain defendants, including Correctional Counselor R. Quintero, at Salinas Valley State Prison – North Facility in Soledad, California. After the United States Marshal attempted service on Quintero, the summons was returned unexecuted with the notation that “Correctional Counselor R. Quintero is unknown at the facility” and “[t]he facility will not accept service.” (Docket No. 56.) On June 24, 2009, plaintiff filed a motion asking the court to compel service on Quintero. In the motion, plaintiff has clarified that defendant Quintero was employed as either a correctional officer or correctional counselor at the Level III Prison of the Correctional Training Facility -- North, Salinas Valley State Prison some time during plaintiff’s imprisonment there between 2000 and January 25, 2008. Plaintiff requests that

1 the court order the United States Marshal “to inspect the employee roster retroactively
2 maintained at the facility” in order to prove that Quintero was, and perhaps still is,
3 employed there. Plaintiff cites no authority, and the court is aware of none, for being able
4 to order such an inspection. However, because plaintiff has provided additional
5 information about Quintero’s position and dates of employment, the court will re-issue
6 summons as to Quintero. Plaintiff is warned that if the marshal is again unable to
7 effectuate service through no fault of his own, Quintero will be dismissed from this action
8 without prejudice. *See Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994),
9 *overruled on other grounds by Sandin v. Connor*, 515 U.S. 472 (1995) (prisoner failed to
10 show cause why prison official should not be dismissed under Rule 4(m) because prisoner
11 did not prove that he provided marshal with sufficient information to serve official or that
12 he requested that official be served).

13 IT IS HEREBY ORDERED THAT plaintiff’s motion to compel service on
14 defendant R. Quintero (docket no. 84) is GRANTED. The clerk of the court shall issue
15 summons and the United States Marshal shall serve, without prepayment of fees, a copy
16 of the **second amended complaint**, all attachments thereto, and a copy of this order upon
17 **Correctional Officer or Correctional Counselor R. Quintero, at Salinas Valley State**
18 **Prison – North Facility in Soledad, California.**

19 IT IS SO ORDERED.

20 DATED: 7/7/09

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22 RONALD M. WHYTE
23 United States District Judge
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