

1 served. Additional information is required from plaintiff in order to proceed against
2 this defendant. Plaintiff must provide the first name or initial of this defendant to
3 the Court in a pleading **within thirty (30) days** from the date of this order in order
4 for the Court to provide the United States Marshal with sufficient information for
5 service to be effected under Fed. R. Civ. P. 4(c)(2). See Walker v. Sumner, 14 F.3d
6 1415, 1422 (9th Cir. 1994). Failure to do so may result in dismissal of the complaint
7 against defendant Campbell under Rule 4(m) of the Federal Rules of Civil
8 Procedure.

9 The summons for defendant Sawaya was returned with the comment in the
10 Remarks section that “They have no records of any officer by the name of Saway
11 ever working at the facility.” (Docket No. 7.) Accordingly, this defendant has not
12 been served. The Court notes that the summons was issued with a different spelling
13 from the one provided by plaintiff, *i.e.*, to Saway rather than Sawaya. However, to
14 avoid further delay, plaintiff must provide the first name or initial of this defendant
15 to the Court in a pleading **within thirty (30) days** from the date of this order in
16 order for the Court to provide the United States Marshal with sufficient information
17 for service to be effected under Fed. R. Civ. P. 4(c)(2). See Walker v. Sumner, 14
18 F.3d 1415, 1422 (9th Cir. 1994). Failure to do so may result in dismissal of the
19 complaint against defendant Sawaya under Rule 4(m).

20 The summons for defendant D. Coleman was returned with the comment in
21 the Remarks section that “Officer D. Coleman is no longer at the facility.” (Docket
22 No. 8.) Since the summons is addressed to the prison and not to a particular unit
23 therein, the Court understands this to mean that D. Coleman is no longer working at
24 PBSP. Accordingly, this defendant has not been served.

25 The clerk of the Court shall send a copy of this order to the Litigation
26 Coordinator at PBSP, who is requested to provide any forwarding address
27 information that is available with respect to defendant Coleman. However, it is
28 ultimately plaintiff’s responsibility to provide a name and address for each defendant

1 to be served in order for the Court to direct the Marshal to serve process on a
2 defendant. Plaintiff must provide the Court with this information in a pleading no
3 later than **thirty (30) days** from the date of this order, in order for the Court to
4 provide the United States Marshal with sufficient information for service to be
5 effected under Fed. R. Civ. P. 4(c)(2). See Walker v. Sumner, 14 F.3d 1415, 1422
6 (9th Cir. 1994). Failure to do so may result in dismissal of the complaint against
7 defendant Coleman under Rule 4(m).

8 B. Request to PBSP Litigation Coordinator

9 In addition to providing any forwarding address available for defendant
10 Coleman, the Court requests the Litigation Coordinator at PBSP to attempt to
11 identify defendants Sawaya and Campbell, who according to plaintiff, were the only
12 officers to work as Third Watch Floor Officers in Housing Unit 4, Facility A on
13 April 25, 2006, (see Docket No. 16 at 3), and notify the Court what information is
14 available **within twenty (20) days** from the date of this order.

15 C. Motions Regarding Discovery

16 Plaintiff has filed a motion for an order compelling discovery. (Docket No.
17 18.) No motion to compel will be considered by the Court unless the meet-
18 and-confer requirement of Fed. R. Civ. P. 37(a)(2)(B) and N.D. Cal. Local Rule
19 37-1 has been satisfied. Because plaintiff is incarcerated he is not required to meet
20 and confer with defendants in person. If his discovery requests are denied, he must
21 send a letter to defendants' counsel to that effect, offering one last opportunity to
22 provide the sought-after information. Plaintiff states that he served his first set of
23 interrogatories upon defendants Patterson and Jackson after the Court issued its
24 order of partial dismissal and of service in August 2008. Plaintiff states that the
25 response he received from Patterson on December 12, 2008 was "evasive, vague,
26 incomplete, and riddled with frivolous, nonsensical objections," and that he has not
27 yet received a response from defendant Jackson. (Docket No. 17 at 2.) He filed the
28 instant motion to compel on January 9, 2009. It does not appear that plaintiff

1 afforded defendants' counsel one last opportunity to provide the sought-after
2 information. Because plaintiff has not shown that he has fulfilled the
3 meet-and-confer requirement, his motion to compel (Docket No. 17) is DENIED as
4 premature.

5 Plaintiff's motion for leave to serve additional interrogatories (Docket No.
6 17) is DENIED as unnecessary. Discovery may be taken in accordance with the
7 Federal Rules of Civil Procedure, and no court order under Federal Rule of Civil
8 Procedure 30(a)(2) or Local Rule 16-1 is required before the parties may conduct
9 discovery.

10
11 **CONCLUSION**

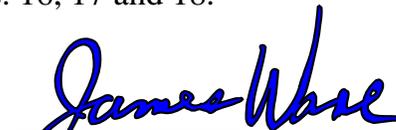
12 Plaintiff must either himself effect service on defendants or provide the Court
13 with the information discussed above such that the Marshal is able to effect service.
14 If no further information is available from the Litigation Coordinator and if plaintiff
15 fails to effectuate service on Campbell, Sawaya, and Coleman or provide the Court
16 with an accurate current location and a first name or initial for applicable defendants
17 **within thirty (30) days** of the date this order is filed, plaintiff's claims against these
18 defendants will be dismissed without prejudice pursuant to Rule 4(m) of the Federal
19 Rules of Civil Procedure.

20 The clerk of the Court is instructed to send a copy of this order to the
21 Litigation Coordinator at PBSP, to comply with the Court's request to provide
22 information as stated above.

23 The Order filed January 15, 2009 is VACATED.

24 This order terminates Docket Nos. 16, 17 and 18.

25
26 DATED: January 26, 2009


27 JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

KHALIF LATEEF,
Plaintiff,

Case Number: CV08-00651 JW

CERTIFICATE OF SERVICE

v.

B. JACKSON, et al.,
Defendants.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 2/13/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Khalif Lateef C-52678
Pelican Bay State Prison
P. O. Box 7500
Crescent City, CA 95531

Litigation Coordinator
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

Dated: 2/13/2009

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk