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

LAWRENCE BLANKENSHIP,  
Plaintiff,  
v.  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,  
Defendants.

No. C 09-1794 LHK (PR)  
ORDER DIRECTING  
PLAINTIFF TO LOCATE  
UNSERVED DEFENDANT

Plaintiff, a state prisoner proceeding *pro se*, filed an amended civil rights complaint pursuant to 42 U.S.C. § 1983. Presently, before the Court are issues related to the service of process of this complaint.

On August 27, 2010, the Court issued a service order directing the Clerk of the Court to issue summons on Defendants California Department of Corrections and Rehabilitation, Officer A. Williams and Officer Little. On November 2, 2010, summons were returned executed on all Defendants except, Officer Little.

Here, Plaintiff’s complaint has been pending for over 120 days, and thus, absent a showing of “good cause,” is subject to dismissal without prejudice as to the unserved Defendants. *See* Fed. R. Civ. P. 4(m). In cases wherein the Plaintiff proceeds in forma pauperis, the “officers of the court shall issue and serve all process.” 28 U.S.C. 1915(d). The Court must appoint the Marshal to effect service, *see* Fed. R. Civ. P. 4(c)(2), and the Marshal, upon order of

1 the Court, must serve the summons and the complaint, *see Walker v. Sumner*, 14 F.3d 1415,  
2 1422 (9th Cir. 1994), *overruled on other grounds by Sandin v. Connor*, 515 U.S. 472 (1995).  
3 Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on service  
4 by the Marshal, such plaintiff “may not remain silent and do nothing to effectuate such service;”  
5 rather, “[a]t a minimum, a plaintiff should request service upon the appropriate defendant and  
6 attempt to remedy any apparent defects of which [he] has knowledge.” *Rochon v. Dawson*, 828  
7 F.2d 1107, 1110 (5th Cir. 1987). If the marshal is unable to effectuate service through no fault  
8 of his own, for example, because plaintiff failed to provide sufficient information or because the  
9 defendant is not where plaintiff claims, and plaintiff is informed, plaintiff must seek to remedy  
10 the situation or face dismissal. *See Walker*, 14 F.3d at 1421-22 (prisoner failed to show cause  
11 why prison official should not be dismissed under Rule 4(m) because prisoner did not prove that  
12 he provided marshal with sufficient information to serve official or that he requested that official  
13 be served).

14 Because Plaintiff has not served the remaining Defendant, nor has he provided sufficient  
15 information to allow the Marshal to locate and serve him, Plaintiff must remedy the situation or  
16 face dismissal of his claims against said Defendant without prejudice. *See Walker*, 14 F.3d at  
17 1421-22. Accordingly, Plaintiff must provide the Court with sufficient information regarding  
18 Defendant Little’s accurate and current location such that the Marshal is able to effect service  
19 upon him. **Failure to do so within thirty days of the date this order is filed will result in the**  
20 **dismissal of the claims against Defendant Little.**

21 IT IS SO ORDERED.

22 DATED: 12/17/2010

23   
24 LUCY H. KOH  
25 United States District Judge  
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