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E-FILED - 8/2/10

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

JAMES LUCIUS OLIVER,)
)
 Plaintiff,)
)
 v.)
)
 C. NOLL, Warden; et al.,)
)
 Defendants.)
 _____)

No. C 09-3840 RMW (PR)
ORDER DENYING REQUEST
TO RE-ISSUE SUMMONS

Plaintiff filed a pro se civil rights action pursuant to 42 U.S.C. § 1983. On December 9, 2009, the court ordered service of the stated cognizable claims upon named defendants. On January 22, 2010, the court received a letter from the Salinas Valley State Prison’s (“SVSP”) litigation coordinator indicating that Correctional Officer Campos no longer worked at SVSP, but was employed at Kern Valley State Prison and that SVSP had no employment records for Correctional Officer Winlen. (Docket No. 53.) On January 29, 2010, the summons for Correctional Officer Meisner was returned unexecuted with the notation that SVSP sent it to a forwarding address, which was returned because that institution had no record of employment for Meisner. (Docket Nos. 54, 55.) On March 8, 2010, the court received another letter from the SVSP litigation coordinator indicating that although the summons was returned executed as to LVN Lindsey, in fact, an attempt to notify her at her last known address was unsuccessful. The letter also noted that LVN Lindsey’s real name is Adora Anih. (Docket No. 61.)

1 In a court order dated March 25, 2010, the court advised plaintiff that it was his
2 responsibility to provide the court with information necessary to identify defendants Winlen,
3 Meisner and LVN Lindsey, also known as Adora Anih. In that order, the court directed plaintiff
4 to provide such information to effectuate service, or face dismissal of the unserved defendants
5 within thirty days. See Fed. R. Civ. P. 4(m).

6 On May 20, 2010, after receiving no communication from plaintiff regarding the location
7 of the unserved defendants, the court dismissed from this action defendants Winlen, Meisner,
8 and Lindsey (otherwise known as Adora Anih). Unbeknownst to the court, however, on May 3,
9 2010, plaintiff had in fact submitted information to assist in the service of defendant Meisner,
10 albeit outside the 30-day time limitation set forth in the court's March 25, 2010 order.

11 Unfortunately for plaintiff, even if the court had considered his letter before issuing the
12 order dismissing unserved defendants, the defendants dismissed on May 20, 2010 would still be
13 dismissed for failure to provide more identifying information. In plaintiff's May 3, 2010 letter,
14 he attached a letter dated April 21, 2010 from the litigation coordinator at SVSP. The litigation
15 coordinator's letter revealed no new information regarding the unserved defendants or different
16 addresses of the unserved defendants at which the Marshals have not already attempted service.
17 Accordingly, plaintiff's request to proceed with re-issuing the summons for defendants Winlen,
18 Mesiner, and Lindsey is DENIED.

19 IT IS SO ORDERED.

20 DATED: 7/30/10


RONALD M. WHYTE
United States District Judge