

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E-FILED - 6/24/11

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

RAUL UVALLES,
Plaintiff,
v.
FRANCISCO JACQUEZ, Warden, et al.,
Defendants.

) No. C 09-5221 RMW (PR)
)
) ORDER OF DISMISSAL OF
) CLAIMS AGAINST UNSERVED
) DEFENDANTS WITHOUT
) PREJUDICE; DIRECTING
) PLAINTIFF TO LOCATE
) UNSERVED DEFENDANTS
)
)
)

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On April 28, 2009, the court issued summons to all named defendants. On September 13, 2010, plaintiff provided more information on ten unserved defendants in order to assist the Marshal in locating them for proper service. On November 10, 2010, the court directed the clerk to re-issue summonses on those ten defendants. The court also directed plaintiff to provide additional information so that the Marshal could serve the remaining three unserved defendants, or face dismissal of those three defendants.

The court's order cautioned plaintiff that the failure to provide the court with accurate and current information on defendants D. Fabela, B. Jones, and J. Hernandez so that the Marshal could effect service would result in dismissal without prejudice of those defendants. More than thirty days from the date of that order have passed, and plaintiff has not provided the court with

1 any further information on defendants D. Fabela, B. Jones, or J. Hernandez. Accordingly,
2 defendants D. Fabela, B. Jones, or J. Hernandez are DISMISSED from this action without
3 prejudice.

4 On December 27, 2010, summonses were returned unexecuted for defendants Henderson,
5 Duncan, Dewitt, Gonzalez, Shaw, and Palaccio because the facility had no information on those
6 defendants, and thus, would not accept service. Plaintiff is reminded that because he has not
7 provided sufficient information to allow the Marshal to locate and serve the above named
8 defendants, plaintiff must remedy the situation or face dismissal of his claims against said
9 defendants without prejudice. See Walker v. Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994),
10 overruled on other grounds by Sandin v. Connor, 515 U.S. 472 (1995).

11 Accordingly, plaintiff must provide the court with accurate and current information for
12 defendants Sgt. Henderson, Charles Duncan, D. Dewitt, Correctional Officer J. Gonzalez,
13 Correctional Officer J. Shaw, and Correctional Officer F. Palaccio such that the Marshal is able
14 to effect service upon them. If plaintiff fails to provide the court with the accurate and current
15 information so that the Marshal can effect service, within **thirty (30) days** of the date this order
16 is filed, plaintiff's claim against the above named defendants will be dismissed pursuant to Rule
17 4(m) of the Federal Rules of Civil Procedure; the dismissal will be without prejudice to plaintiff
18 refiling his complaint with such information.

19 IT IS SO ORDERED.

20 DATED: 6/24/11



RONALD M. WHYTE
United States District Judge