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NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PRINCE DEON SHOTWELL, JR.,)	No. C 10-01274 JF (PR)
Plaintiff,)	
vs.)	ORDER DIRECTING PLAINTIFF TO
)	PROVIDE COURT WITH LOCATION
C. NOLLS, et al.,)	INFORMATION FOR UNSERVED
Defendants.)	DEFENDANTS
_____)	

Plaintiff, a prisoner currently incarcerated at the California State Prison in Corcoran, filed the instant civil rights action in pro se pursuant to 42 U.S.C. § 1983 against prison officials at the Correctional Training Facility (“CTF”) in Soledad for allegedly unconstitutional acts. The Court ordered service of Plaintiff’s amended complaint upon the named defendants. (See Docket No. 17.) The summons for Defendants J. Chudy and S. Musgrove were returned unexecuted on March 14, 2011, with the following remark: “Subject is no longer at the facility. The facility will not accept service.” (Docket Nos. 22 & 23.) Accordingly, Chudy and Musgrove have not been served.

Although a plaintiff who is incarcerated and proceeding in forma pauperis may

1 rely on service by the Marshal, such plaintiff “may not remain silent and do nothing to
2 effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon
3 the appropriate defendant and attempt to remedy any apparent defects of which [he] has
4 knowledge.” Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, Plaintiff’s
5 complaint has been pending for over 120 days, and thus, absent a showing of “good
6 cause,” is subject to dismissal without prejudice. See Fed. R. Civ. P. 4(m). Plaintiff has
7 not provided sufficient information to allow the Marshal to locate and serve Defendants
8 Chudy and Musgrove, and consequently Plaintiff must remedy the situation or face
9 dismissal of his claims against these defendants without prejudice. See Walker v.
10 Sumner, 14 F.3d at 1421-22 (holding prisoner failed to show cause why prison official
11 should not be dismissed under Rule 4(m) where prisoner failed to show he had provided
12 Marshal with sufficient information to effectuate service).

13 Accordingly, Plaintiff must provide the Court with these Defendants’ accurate
14 current location such that the Marshal is able to effect service. If Plaintiff fails to provide
15 the Court with an accurate current location for them within **thirty (30) days** of the date
16 this order is filed, Plaintiff’s claims against Chudy and Musgrove will be dismissed
17 without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

18 IT IS SO ORDERED.

19 DATED: 4/1/11

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21 _____
22 JEREMY FOGEL
23 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

PRINCE D. SHOTWELL, JR.,
Plaintiff,

Case Number: CV10-01274 JF

CERTIFICATE OF SERVICE

v.

C. NOLLS, 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 4/22/11, 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.

Prince Deon Shotwell H-05927
CA State Prison
P.O. BOX 5248
A2 B 245L
Corcoran, CA 93212

Dated: 4/22/11

Richard W. Wieking, Clerk