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NOT FOR CITATION  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

MARIO TRUJILLO,	)	No. C 10-05183 JF (PR)
Plaintiff,	)	ORDER DISMISSING DEFENDANT F.
vs.	)	AVILA; DIRECTING CLERK TO
	)	REISSUE SUMMONSES
FRANCISCO JACQUEZ, et al.,	)	
Defendants.	)	
_____	)	

Plaintiff, a prisoner currently incarcerated at the Pelican Bay State Prison (“PBSP”) in Crescent City, filed the instant civil rights action in pro se pursuant to 42 U.S.C. § 1983 against PBSP officials. The Court ordered service of Plaintiff’s complaint upon the named defendants. (See Docket No. 3.) On March 14, 2011, the summonses for Defendants J. Reynoso and F. Avila were returned with explanatory remarks. (See Docket No. 15 & 16.) The Court directed Plaintiff to provide Defendant Reynoso’s full name and badge number and Defendant Avila’s current location or face dismissal of the claims against these Defendants with prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (See Docket No. 20 at 2.)

Plaintiff has filed a response to the Court’s order, providing the badge numbers of

1 Defendants Reynoso, Avila, Nicholas White and C. Moua. (Docket No. 25.) The Court  
2 notes that counsel for Defendant White has appeared on his behalf. (Docket No. 26.)  
3 However, it appears that Defendants Reynoso and Moua have not been served. The Court  
4 will reissue summons to these defendants with the information provided by Plaintiff.  
5 However, because Plaintiff has failed to provide an accurate current location for  
6 Defendant Avila, who is no longer at PBSP, the claims against this defendant are  
7 DISMISSED without prejudice pursuant to Rule 4(m).

8  
9 **CONCLUSION**

10 For the reasons stated above, the Court orders as follows:

11 1. All claims against Defendant F. Avila are DISMISSED without prejudice  
12 pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. The Clerk shall terminate  
13 this defendant from this action.

14 2. The Clerk of the Court shall reissue summons and the United States  
15 Marshal shall serve, without prepayment of fees, a copy of the complaint in this matter,  
16 all attachments thereto, a copy of the Court Order filed February 22, 2011, (Docket No.  
17 3), and a copy of this order upon **Defendants J. Reynoso (Badge No. 69504 - I.D. No.**  
18 **116003086) and C. Moua (Badge No. 77137 - I.D. No. 116003696)** at the **Pelican Bay**  
19 **State Prison**. The Clerk shall also mail a courtesy copy of this order to the California  
20 Attorney General's Office.

21 3. Defendants shall file a motion for summary judgment or other dispositive  
22 motion with respect to the claims in the complaint found to be cognizable, and briefing  
23 shall proceed thereafter, in accordance with the schedule and instructions set forth in the  
24 Court's Order of Service, filed February 22, 2011, (Docket No. 3).

25 IT IS SO ORDERED.

26 DATED: 6/8/11

27   
28 JEREMY FOGEL  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MARIO TRUJILLO,  
Plaintiff,

Case Number: CV10-05183 JF

**CERTIFICATE OF SERVICE**

v.

FRANCISCO JACQUEZ, 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 6/13/11, 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.

Mario Trujillo F-99682  
Pelican Bay State Prison  
P.O. Box 7500  
Crescent City, CA 95531

Dated: 6/13/11

Richard W. Wieking, Clerk  
By: Hannah Hwang, Deputy Clerk