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

ALFRED R. KIDD,)	No. C 11-04260 EJD (PR)
)	
Plaintiff,)	ORDER DIRECTING PLAINTIFF TO
)	PROVIDE COURT WITH MORE
vs.)	INFORMATION FOR UNSERVED
)	DEFENDANT; DIRECTING CLERK
B. POWELL, et al.,)	TO ISSUE NOTICE OF LAWSUIT TO
)	DEFENDANT LOPEZ
Defendants.)	
_____)	

18 Plaintiff, a California inmate, filed the instant civil rights action in pro se pursuant
19 to 42 U.S.C. § 1983 against Salinas Valley State Prison (“SVSP”) officials. The Court
20 ordered service of Plaintiff’s complaint upon the named defendants. (See Docket No.
21 18.) The following defendants have not been served.

DISCUSSION

A. Insufficient Location Information

25 The Waiver of Service of Summons and Complaint for Defendant J. Martin that
26 was sent to SVSP, where Plaintiff indicated he was located, was returned undelivered on
27 March 6, 2012, with the following remark: “Personnel records for the institution do not
28 reflect employment of a person by this name.” (Docket No. 19.) Accordingly, Martin has

1 not been served.

2 Although a plaintiff who is incarcerated and proceeding in forma pauperis may
3 rely on service by the Marshal, such plaintiff “may not remain silent and do nothing to
4 effectuate such service”; rather, “[a]t a minimum, a plaintiff should request service upon
5 the appropriate defendant and attempt to remedy any apparent defects of which [he] has
6 knowledge.” Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, Plaintiff’s
7 complaint has been pending for over 120 days, and thus, absent a showing of “good
8 cause,” is subject to dismissal without prejudice. See Fed. R. Civ. P. 4(m).

9 Plaintiff has not provided sufficient information to allow the Marshal to locate and
10 serve Defendant J. Martin, and consequently Plaintiff must remedy the situation or face
11 dismissal of his claims against these defendants without prejudice. See Walker v.
12 Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994)(holding prisoner failed to show cause
13 why prison official should not be dismissed under Rule 4(m) where prisoner failed to
14 show he had provided Marshal with sufficient information to effectuate service).
15 Accordingly, Plaintiff must provide the Court with these Defendant’s accurate current
16 location such that the Marshal is able to effect service.

17 **B. Defendant Officer Lopez**

18 Plaintiff’s complaint included a claim against Defendant Officer Lopez for failing
19 to provide medical attention for the injuries he incurred after the alleged use of excessive
20 force by other Defendants on August 18, 2009. (Compl. ¶ 25.) Liberally construed, this
21 claim is cognizable as deliberate indifference to Plaintiff’s serious medical needs.
22 Accordingly, Defendant Lopez should be served with the complaint.

23
24 **CONCLUSION**

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

26 1. Plaintiff must file notice and provide the Court with the accurate current
27 location of Defendant J. Martin such that the Marshal is able to effect service. **If Plaintiff**
28 **fails to provide the Court with an accurate current location for this Defendant**

1 **within thirty (30) days of the date this order is filed, Plaintiff's claims against Martin**
2 **will be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of**
3 **Civil Procedure.**

4 2. The Clerk of the Court shall mail a Notice of Lawsuit and Request for
5 Waiver of Service of Summons, two copies of the Waiver of Service of Summons, a copy
6 of the complaint, all attachments thereto, a copy of the Court's Order of Service (Docket
7 No. 18), and a copy of this order upon **Defendant Officer Lopez at Salinas Valley State**
8 **Prison**, (P.O. Box 1020, Soledad, CA 93960-1020).

9 3. Defendant Lopez shall file a motion for summary judgment or other
10 dispositive motion with respect to the claims in the complaint found to be cognizable, and
11 briefing shall proceed thereafter, in accordance with the schedule and instructions set
12 forth in the Court's Order of Service, filed February 3, 2012, (Docket No. 18).

13
14 DATED: 3/30/2012


EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ALFRED R. KIDD,
Plaintiff,

Case Number: CV11-04260 EJD

CERTIFICATE OF SERVICE

v.

B. POWELL, 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 4/2/2012, 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.

Alfred R. Kidd K-55068
Mule Creek State Prison
P. O. Box 409099
Ione, CA 95640-0066

Dated: 4/2/2012

Richard W. Wieking, Clerk
/s/By: Elizabeth Garcia, Deputy Clerk