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FILED

AUG 14 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

ANTHONY W. JOHNSON, JR.,

Plaintiff,

v.

R. MACHUCA, JR., et al.,

Defendants.

No. C 13-00596 EJD (PR)

ORDER DIRECTING PLAINTIFF TO
PROVIDE COURT WITH MORE
INFORMATION FOR UNSERVED
DEFENDANTS; REQUESTING
INFORMATION FROM LITIGATION
COORDINATOR

On February 11, 2013, Defendants filed a notice of removal to federal court, removing Plaintiff's civil complaint from Monterey Superior Court to this Court. Plaintiff is a California inmate currently incarcerated at the Salinas Valley State Prison ("SVSP"). The Court ordered service upon the named Defendants. (Docket No. 8.) Notices of Lawsuit and Requests for Waiver of Service of Summons for each of the Defendants were mailed to SVSP. On June 10, 2013, Litigation Coordinator G. Lopez sent a letter to the Court indicating that Defendant A. Arreola was not located in the personnel database as ever being employed at SVSP. (Docket No. 17.) On July 19, 2013, Litigation Coordinator G. Lopez sent another letter to the Court indicating that Defendant T. Sumblin had resigned. (Docket No. 21.) Accordingly, Defendants A. Arreola and T. Sumblin have not been served.

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

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

16 The Court notes that Plaintiff submitted with his complaint institutional documents
17 that identify “CO A. Arreola” as having been questioned in connection with the Plaintiff’s
18 allegations of SVSP staff misconduct. (See Docket No. 1-1, p. 16, attached.) In the
19 interest of justice, the Court requests that the SVSP Litigation Coordinator review this
20 document and determine whether the employee identified in the institutional document is
21 Defendant A. Arreola. If the employee is said Defendant, the Court requests that the
22 SVSP Litigation Coordinator notify the Court if the individual is currently employed at
23 SVSP. If the individual is a former employee of SVSP, but still employed with the
24 California Department of Corrections and Rehabilitation (“CDCR”), the SVSP Litigation
25 Coordinator is requested to provide a current employment address for the Defendant. If
26 Defendant is a former employee but no longer employed with CDCR, the Litigation
27 Coordinator is requested to provide a forwarding address or notice that such information
28 is not available.

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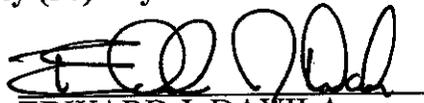
CONCLUSION

1. Plaintiff must file a notice providing the Court with an accurate and current addresses for **Defendant A. Arreola** and **Defendant T. Sumblin** such that the Marshal is able to effect service. If Plaintiff fails to provide the Court with an accurate and current addresses for Defendant A. Arreola and Defendant T. Sumblin **within thirty (30) days** of the date this order is filed, Plaintiff's claims against these Defendants will be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

2. In the interest of the justice, the Clerk of the Court shall forward a copy of this order to the Litigation Coordinator at **Salinas Valley State Prison, P.O. Box 1020, Soledad, CA 93960**, who is requested to provide the current employment status for **Defendant A. Arreola** and any available forwarding address, or notice that such information is not available, **within thirty (30) days** from the date this order is filed.

DATED: _____

8/13/13


EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY W. JOHNSON, JR.,
Plaintiff,

Case Number CV 13-00596 EJD (PR)

CERTIFICATE OF SERVICE

v.

R. MACHUCA, JR., et al.,
Defendants.

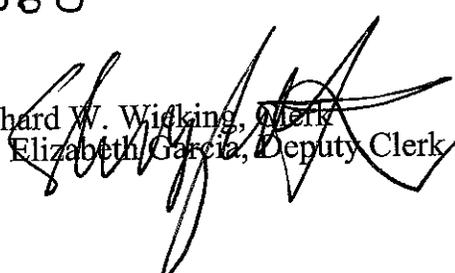
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 8/14/13, 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) inter-office delivery receptacle located in the Clerk's office.

Anthony Wayne Johnson
F58411
Salinas Valley State Prison
P.O. Box 1030
Soledad, CA 93960-1060

Prison Litigator
Salinas Valley State Prison
P.O. Box 1030
Soledad CA 93960-1060

DATED: 8/14/13


Richard W. Wickling, Clerk
By: Elizabeth Garcia, Deputy Clerk