Doc. 8

Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on service by the Marshal, such plaintiff "may not remain silent and do nothing to effectuate such service"; rather, "[a]t a minimum, a plaintiff should request service upon the appropriate defendant and attempt to remedy any apparent defects of which [he] has knowledge." Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, plaintiff's complaint has been pending for over 90 days, and thus, absent a showing of "good cause," is subject to dismissal without prejudice. See Fed. R. Civ. P. 4(m).

Because plaintiff has not provided sufficient information to allow the Marshal to locate and serve defendant T. Peterson, plaintiff must remedy the situation or face dismissal of his claims against this defendant without prejudice. See Walker v. Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (holding prisoner failed to show cause why prison official should not be dismissed under Rule 4(m) where prisoner failed to show he had provided Marshal with sufficient information to effectuate service). Accordingly, plaintiff must provide the court with an accurate and current location for defendant T. Peterson such that the Marshal is able to effect service.

CONCLUSION

- 1. Plaintiff shall provide the court with an accurate and current location for defendant T. Peterson within **thirty** (30) **days** of the date this order is filed, or plaintiff's claims against this defendant will be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.
- 2. In the interest of justice, the court requests that the Litigation Coordinator at San Quentin State Prison ("SQSP") determine if defendant T. Peterson is still employed with the California Department of Corrections and Rehabilitation ("CDCR"), and if so, to provide the court with a current employment address for the defendant. If he is a former employee but no longer employed with CDCR, the Litigation Coordinator is requested to provide a forwarding address, or notice that such information is not available.
- 3. The Clerk is directed to send a copy of this order to plaintiff and the Litigation Coordinator at SQSP.

IT IS SO ORDERED.

RONALD M. WHYTE United States District Judge

Order of Service; Directing Defendants to File Disposition Motion P:\PRO-SE\RMW\CR.15\Ayala037moreinfo-Peterson.wpd