

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE WILLIAMS,

Plaintiff,

v.

ROMERO, et al.,

Defendants.

No. 2:17-cv-1884 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding pro se with an action under 42 U.S.C. § 1983. Plaintiff alleges defendants subjected him to excessive force and were deliberately indifferent to his medical needs in violation of the Eighth Amendment. On March 5, 2018, the court denied plaintiff's motion to proceed in forma pauperis because plaintiff had accrued "three strikes" under 28 U.S.C. § 1915(g). On March 27, 2018, plaintiff paid the filing fee to proceed with this case.

In an order filed April 6, 2018, the court informed plaintiff that he must complete service of process in accordance with Federal Rule of Civil Procedure 4 within sixty days. (ECF No. 13.) Plaintiff was provided with summonses for purposes of service of process.

On May 29, 2018, plaintiff moved the court for an order directing the U.S. Marshal to effect service for him under Rule 4(c)(3). Plaintiff argued that because he is indigent and incarcerated, he is unable to pay the \$120 fee required by the Sheriff's office to serve the summonses and complaint. (ECF No. 19.) Noting that plaintiff did not appear to have attempted

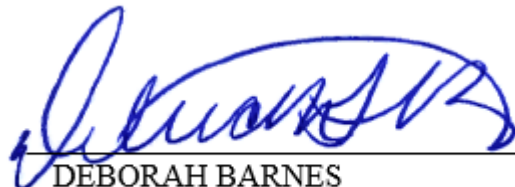
1 to secure a waiver of service under Rule 4(d), the court denied plaintiff's motion without
2 prejudice. (ECF No. 20.)

3 On July 18, 2018, plaintiff filed a renewed motion for assistance in serving his complaint.
4 (ECF No. 23.) Plaintiff states that he sent waivers of service to defendants on June 14, 2018. He
5 attaches a copy of the waiver request he sent. However, plaintiff does not explain whether he
6 followed all the requirements of Rule 4(d). Plaintiff's waiver forms indicate that he provided
7 defendants with a copy of the complaint, two copies of the waiver form, and a stamped self-
8 addressed envelope. (See ECF No. 23 at 4.) However, plaintiff does not show that he: (1) sent a
9 separate notice, two waiver forms, a copy of the complaint, and a stamped envelope to each
10 individual defendant¹; and (2) provided each defendant with a copy of the appropriate Waiver of
11 Service of Summons form.² If plaintiff can establish that he has met each of the requirements of
12 Rule 4(d), and based on the facts that plaintiff is indigent and incarcerated, then the court will
13 direct the U.S. Marshal to effect service.

14 Accordingly, IT IS HEREBY ORDERED that within twenty (20) days of the date of this
15 order, plaintiff shall file an addendum to his Motion for U.S. Marshal to Effect Service. In that
16 addendum, plaintiff shall explain whether his attempt to secure waiver of service met the
17 following requirements of Rule 4(d): (1) plaintiff sent a separate notice, two waiver forms, a copy
18 of the complaint, and a stamped, self-addressed envelope to each individual defendant; and (2)
19 plaintiff provided each defendant with a copy of the appropriate Waiver of Service of Summons
20 form.

21 Dated: July 31, 2018

22
23 DLB:9
24 DB/prisoner-civil rights/will1884.rule 4(2)

25
26 
27 DEBORAH BARNES
28 UNITED STATES MAGISTRATE JUDGE

26
27 ¹ In fact, plaintiff's waiver indicates that he just sent one copy to all defendants. The notice
indicates it was sent "TO: Romero et, al."

28 ² A copy of the Waiver of Service of Summons form is an addendum to Rule 4.