

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 07-4180 JHN(JC)	Date	March 2, 2012
Title	Shawne Fletcher v. Lee Baca, et al.		

Present: The Honorable	Jacqueline Chooljian, United States Magistrate Judge		
Hana Rashad	None	None	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
none	none		

Proceedings: (IN CHAMBERS)

ORDER TO SHOW CAUSE

On May 29, 2008, plaintiff Shawne Fletcher (“plaintiff”), an inmate proceeding *pro se* who has been granted leave to proceed *in forma pauperis*, lodged the operative verified First Amended Civil Rights Complaint pursuant to 42 U.S.C. § 1983, which the Court ordered filed on March 31, 2009. The First Amended Complaint names as defendants, among others, the following individuals who have not yet been served: Los Angeles Sheriff’s Department (“LASD”) Lieutenant H. Reyes and Drs. Campbell and Brown (collectively “defendants in issue”).

On September 20, 2010, this Court authorized the U.S. Marshal to serve the defendants in issue and others. The Court also issued an Order Re: Service of Process by U.S. Marshal which directed plaintiff to provide a completed USM-285 Form for each of the defendants in issue and others and to file a Notice of Submission on or before October 10, 2010, indicating that the completed USM-285 Forms had been provided to the Clerk. More specifically, on September 20, 2010, the Court directed plaintiff to complete and return to the Clerk, USM-285 Forms providing the first and last name of the defendants, any available identification numbers, and a complete street address where the defendants could be served with a summons and the First Amended Complaint. (Docket No. 181). Plaintiff did not timely file a Notice of Submission as directed by the Court. However, on February 8, 2011, plaintiff filed a Request seeking additional blank USM-285 Forms and a list of unserved defendants, claiming that he had failed to comply with the Court’s directives relative to the proper completion of USM-285 Forms, because he did not receive the Court’s September 20, 2010 Order Re: Service of Process by U.S. Marshal. On August 12, 2011, the Court granted the foregoing request and afforded plaintiff a final opportunity to provide properly completed USM-285 Forms to the Clerk.

On September 9, 2011, plaintiff returned completed USM-285 Forms to the Clerk which were received, along with a Notice of Submission, on or about September 14, 2011. The Clerk forwarded the information to the USMS. On November 3, 2011, the USMS was advised that the defendants in issue could not be served at the address provided by plaintiff on the USM-285 Forms submitted by plaintiff relative to such defendants. The USMS was further advised (1) as to defendant Reyes, that he could not be served because he was not an employee of LASD; and (2) as to defendants Campbell and Brown, more identifying information was needed (namely the first names of such individuals).

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On January 13, 2012, the Court issued an order which noted that the defendants in issue had not yet been served and directed plaintiff, within fourteen (14) days, to supply the Court with information sufficient to effect service upon each such defendant. Although the deadline to comply with the January 13, 2012 order has long passed, to date, plaintiff has failed to provide any additional information with which to serve the defendants in issue.

A *pro se* plaintiff, proceeding *in forma pauperis*, is entitled to rely on the USMS for service and should not be penalized by having his action dismissed for failure to effect service where the USMS has failed to perform its duties. Puett v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990). Nevertheless, a plaintiff relying upon the USMS for service must provide the necessary information to effectuate service. Id. Where a *pro se* plaintiff fails to provide the USMS with accurate and sufficient information to effect service of the summons and complaint, a court may dismiss the unserved defendant *sua sponte*. Walker v. Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994), abrogated on other grounds by Sandin v. Connor, 515 U.S. 472 (1995). Here, the USMS has been diligent in attempting to effect service but has been unable to do so because plaintiff has provided insufficient information.

IT IS THEREFORE ORDERED that the plaintiff shall show cause in writing, on or before **March 16, 2012**, why this Court should not dismiss this action as against the defendants in issue based upon plaintiff's failure to provide the USMS with adequate information to effect service upon such defendants and plaintiff's failure to prosecute this action vis-a-vis such defendants by providing such information.

Plaintiff is cautioned that the failure to comply with this order and/or to show good cause, may result in the dismissal of this action as against the defendants in issue.

IT IS SO ORDERED.

Initial of Deputy Clerk

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