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SC

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

| | | |
|---------------------------|---|-----------------------|
| Bobby James Williams, |) | No. CV 1-05-01649-GMS |
| |) | |
| Plaintiff, |) | ORDER |
| |) | |
| vs. |) | |
| |) | |
| Roderick Hickman, et al., |) | |
| |) | |
| Defendants. |) | |

In a January 30, 2009 Order (doc.# 20), the Court gave Plaintiff 30 days to complete and return to the Clerk of Court a Notice of Submission of Documents and submit with the Notice a copy of the Second Amended Complaint, a copy of the Court’s January 30, 2009 Order, a completed summons for each Defendant, and a completed USM-285 for each Defendant. Plaintiff has returned the required papers.

Accordingly,

IT IS ORDERED:

- (1) The Clerk of Court must send to the United States Marshal:
 - (a) a copy of the Second Amended Complaint for each Defendant to be served,
 - (b) a copy of the Court’s January 30, 2009 Order for each Defendant to be served,
 - (c) a completed and issued summons for each Defendant to be served,
 - (d) a completed USM-285 for each Defendant to be served, and

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(e) a copy of this Order.

(2) If Plaintiff does not either obtain a waiver of service of the summons or complete service of the Summons and Second Amended Complaint on a Defendant within 120 days of the filing of this Order, the action may be dismissed as to each Defendant not served. Fed. R. Civ. P. 4(m).

(3) The United States Marshal must retain the Summonses, USM-285 forms, a copy of the Second Amended Complaint, a copy of the Court’s January 30, 2009 Order, and a copy of this Order for future use.

(4) Within 10 days of the date this Order is filed, the United States Marshal must notify Defendants of the commencement of this action and request waiver of service of the summons pursuant to Rule 4(d) of the Federal Rules of Civil Procedure. The notice to Defendants must include a copy of this Order and the Court’s January 30, 2009 Order.

(5) The United States Marshal must immediately file requests for waivers that were returned as undeliverable and waivers of service of the summons.

(6) If a waiver of service of summons is not returned by a Defendant within 60 days from the date the request for waiver was sent by the United States Marshal, the Marshal must:

(a) personally serve copies of the Summons, the Second Amended Complaint, the Court’s January 30, 2009 Order, and this Order upon Defendant pursuant to Rule 4(e)(2) of the Federal Rules of Civil Procedure, and shall command all necessary assistance from the California Department of Corrections and Rehabilitation (CDCR) to execute this Order. The United States Marshal must maintain the confidentiality of all information provided by the CDCR pursuant to this Order.

(b) within 10 days after personal service is effected, file the return of service for Defendant, along with evidence of the attempt to secure a waiver of service of the summons and of the costs subsequently incurred in effecting service upon Defendant. The costs of service must be enumerated on the return of service form (USM-285) and


1 must include the costs incurred by the Marshal for photocopying additional copies of
2 the Summons, Second Amended Complaint, the January 30, 2009 Order, or this Order
3 and for preparing new process receipt and return forms (USM-285), if required. Costs
4 of service will be taxed against the personally served Defendant pursuant to Rule
5 4(d)(2) of the Federal Rules of Civil Procedure, unless otherwise ordered by the
6 Court.

7 (7) **A Defendant who agrees to waive service of the Summons and Second**
8 **Amended Complaint must return the signed waiver forms to the United States Marshal,**
9 **not the Plaintiff.**

10 (8) Defendants must answer the Second Amended Complaint or otherwise respond
11 by appropriate motion within the time provided by the applicable provisions of Rule 12(a)
12 of the Federal Rules of Civil Procedure.

13 (9) Any answer or response must state the specific Defendant by name on whose
14 behalf it is filed. The Court may strike any answer, response, or other motion or paper that
15 does not identify the specific Defendant by name on whose behalf it is filed.

16 DATED this 13th day of February, 2009.

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19 G. Murray Snow
20 United States District Judge
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