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

MAXIMILIAN MONCLOVA-CHAVEZ,

Plaintiff,

vs.

1: 08 CV 000076 AWI YNP SMS (PC)

ORDER

ERIC McCEACHERN, et al.,

Defendants.

Plaintiff is a federal prisoner proceeding pro se and in forma pauperis in a civil rights action. This action proceeds on the complaint filed on January 15, 2008.

On November 17, 2008, an order was entered, finding that the complaint stated a claim against Defendants McCeacher, Miller, White and Tincher. Plaintiff completed the forms for service of process and on December 12, 2008, the U.S. Marshal was directed to effect service of process upon Defendants. On March 11, 2009, a waiver of service was returned, indicating that Defendant Miller was served. On March 30, 2009, a waiver of service was returned, indicating that Defendant While was served. Defendants While and Miller filed answers to the complaint on April 24, 2009.

On June 19, 2009, the USM 285 form for service of process upon Defendant Tincher was returned, indicating service of Defendant Tincher on June 8, 2009. Service was effected by

1 delivery to Lt. Glenn Cobb. There is no indication regarding service of the U.S. Attorney in the
2 Eastern District, or upon the Attorney General of the United States at Washington, District of
3 Columbia. Federal Rule of Civil Procedure 4(i) requires that the United States be served by
4 sending a copy of the summons and complaint by registered or certified mail to the U.S. Attorney
5 and the Attorney General in addition to service on the individual officer. Rule 4(i)(A) sets out
6 the specific requirements.

7 On August 4, 2009, Defendant Tincher filed an ex parte request for an extension of time
8 to file a response to the complaint. Mr. Tincher requests that the Court issue an order
9 confirming that service has not been effected upon him, and thus his time to respond to the
10 complaint has not begun to run, and will not begin to run until service upon the United States has
11 been effected, as required by Rule 4(i).

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. The U.S. Marshal is directed to effect service of process upon the U.S. Attorney and
14 the Attorney General in accord with Federal Rule of Civil Procedure 4(i). Within 45 days of the
15 date of service of the order, the U.S. Marshal shall submit to the Court a return of service,
16 indicating service or attempts to effect service upon U.S. Attorney and the Attorney General.

17 2. The Clerk's Office is directed to serve a copy of this order upon the U.S. Marshal.

18
19 IT IS SO ORDERED.

20 **Dated:** August 12, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE