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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL JOHN MCGLOTHIN,	CASE NO. 1:10-cv-00247-AWI-GBC (PC)
Plaintiff,	ORDER REQUIRING PLAINTIFF TO
v.	EFFECTUATE SERVICE
M. GARCIA, et al.,	FORTY-FIVE DAY DEADLINE
Defendants.	

ORDER

Plaintiff Michael John McGlothlin (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On June 21, 2011, the Court issued an Order requiring that Plaintiff serve his Second Amended Complaint on Defendants Steen, Torres, Castro, and Jose. (ECF No. 15.) Plaintiff was ordered to serve the Complaint within 120 days pursuant to Federal Rule of Civil Procedure 4(m). (Id.) On August 15, 2011, Plaintiff filed a “Certificate of Service”. (ECF No. 24.) In it, he states that this filing should serve as the notice to the Clerk of the Court that Plaintiff did serve each Defendant. (Id.) However, this is not the proper way to demonstrate that service was effectuated.

1 Plaintiff appears to believe that by filing this Certificate, he has effectuated personal
2 service. This is not the case. Plaintiff's proof of service does not comply with Rule 4. It
3 does not appear that Plaintiff requested a waiver of service or that Defendants agreed to
4 a waiver of service as no waivers of service have been filed with the Court. Also, it does
5 not appear that Plaintiff has attempted personal service as the proof of service filed is
6 improper.
7

8 Assuming Plaintiff is attempting personal service instead of requesting a waiver of
9 service, he must comply with Federal Rule of Civil Procedure 4, which was attached to the
10 Order instructing Plaintiff how to effectuate service. (ECF No. 15.) Plaintiff is reminded
11 that personal service requires that a copy of the summons and complaint be delivered to
12 the individual personally, which often requires hiring a process server. Fed. R. Civ. Pro.
13 4(e)(2)(A). After this is accomplished, proof of service must be made to the Court. If
14 Plaintiff hires a process server, proof must be provided by the server. Fed. R. Civ. Pro.
15 4(l)(1).
16

17 Accordingly, the Court will give Plaintiff one final opportunity to effectuate service
18 on Defendants Steen, Torres, Castro, and Jose. Service must be effectuated within forty-
19 five days of the date of this Order. If Plaintiff again fails to accomplish service, this action
20 will be dismissed.
21

22 IT IS SO ORDERED.

23 Dated: August 22, 2011


24 UNITED STATES MAGISTRATE JUDGE
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