

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LUIS VALENZUELA RODRIGUEZ,

 Plaintiff,

 v.

HUBBARD, et al.,

 Defendants.

Case No. 1:10-cv-00858 LJO DLB PC

ORDER REQUIRING PLAINTIFF TO
SHOW CAUSE WHY DEFENDANTS
HUBBARD, CATE, HARRINGTON, SOTO,
GRISSOM, DAVIS, FOSTER AND FREIR
SHOULD NOT BE DISMISSED PURSUANT
TO RULE 4(M)

(Doc. 28)

_____ / TWENTY-DAY DEADLINE

Plaintiff Luis Valenzuela Rodriguez, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on May 5, 2010. This action is proceeding on Plaintiff’s third amended complaint against Defendants Hubbard, Cate, Harrington, Biter, Soto, Phillips, Da Veiga, Ozaeta, Betzinger, Gregory, Garza, Wegman, Alic, Grissom, Speidell, Davis, Foster, Freir, and Rankin (“Defendants”) on claims of violation of the Free Exercise Clause of the First Amendment, violation of the Equal Protection Clause of the Fourteenth Amendment, retaliation in violation of the First Amendment, and deliberate indifference to Plaintiff’s safety in violation of the Eighth Amendment. On October 1, 2012, the Court issued an order requiring Plaintiff to effect service of summonses and the amended complaint on Defendants within one-hundred twenty days. More than one-hundred twenty days have passed. Defendants Biter, Phillips, Da Veiga, Ozaeta, Betzinger, Gregory, Garza, Wegman,

1 Alic, Speidell, and Rankin were served and made appearances in the action. Although it appears
2 that Plaintiff has attempted to serve Defendants Hubbard, Cate, Harrington, Soto, Grissom, Davis,
3 Foster, and Freir, there is no evidence in the record demonstrating that Plaintiff effected service on
4 those defendants.

5 Rule 4(m) of the Federal Rules of Civil Procedure provides, in relevant part:

6 If a defendant is not served within 120 days after the complaint is filed, the court -
7 on motion or on its own after notice to the plaintiff - must dismiss the action
8 without prejudice against that defendant or order that service be made within a
9 specified time. But if the plaintiff shows good cause for the failure, the court must
10 extend the time for service for an appropriate period.

11 Pursuant to Rule 4(m), the Court directed Plaintiff to effect service within a specified time.
12 There is no indication in the record that Plaintiff has done so. Therefore, pursuant to Rule 4(m),
13 Plaintiff must show cause why Defendants Hubbard, Cate, Harrington, Soto, Grissom, Davis,
14 Foster, and Freir should not be dismissed from the action for failure to effect service of process.

15 Accordingly, it is HEREBY ORDERED that:

16 1. Pursuant to Rule 4(m), Plaintiff shall show cause within twenty (20) days from the
17 date of service of this order why Defendants Hubbard, Cate, Harrington, Soto, Grissom, Davis,
18 Foster, and Freir should not be dismissed from the action for failure to effect service of process;
19 and

20 2. The failure to respond to this order, or the failure to show good cause, will result in
21 the dismissal of Defendants Hubbard, Cate, Harrington, Soto, Grissom, Davis, Foster, and Freir
22 for failure to effect service on Defendants.

23 IT IS SO ORDERED.

24 Dated: September 25, 2014

/s/ Dennis L. Beck
25 UNITED STATES MAGISTRATE JUDGE
26
27
28