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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

LUIS VALENZUELA RODRIGUEZ,

Plaintiff,

v.

SUSAN HUBBARD, et al.,

Defendants.

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

**ORDER DENYING PLAINTIFF'S  
MOTION FOR SERVICE OF PROCESS BY  
UNITED STATES MARSHAL**  
(ECF Nos. 39, 40)

Plaintiff Luis Valenzuela Rodriguez (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation. Plaintiff is proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. On September 28, 2012, the Court screened Plaintiff’s third amended complaint and found that it stated cognizable claims for relief against Defendants Susan Hubbard, Cate, Harrington, Biter, Philips, Soto, Da Veiga, Ozaeta, M. Betzinger, Gregory, Garza, Wegman, Alic, Grissom, Speidell, Davis, Foster, Freir, and Rankin. Plaintiff is not proceeding in forma pauperis in this action, having paid the filing fee in full on July 30, 2010. Plaintiff was provided with instructions for service of process, and all necessary documents to effect service.

Pending before the Court are Plaintiff’s motions, filed October 11, 2012, and October 17, 2012, requesting to proceed in forma pauperis. Plaintiff appears to seek the assistance of the United States Marshals Service to effect service. Plaintiff contends that he had previously been granted in forma pauperis status by the Court. However, a review of the Court’s docket indicates that Plaintiff is not proceeding in forma pauperis.

1 Pursuant to Rule 4(c)(3) of the Federal Rules of Civil Procedure, the Court may order that  
2 service be made by the United States Marshals Service at the Plaintiff's request. Such order remains  
3 within the discretion of the Court because Plaintiff is not proceeding in forma pauperis. Plaintiff  
4 contends that his incarcerated status will cause serious difficulties with service. However, Plaintiff  
5 has failed to demonstrate that he is unable to serve Defendants in this action. Plaintiff has not  
6 demonstrated any attempt to serve Defendants.

7 Accordingly, it is HEREBY ORDERED that Plaintiff's motions to proceed in forma pauperis  
8 and for service by the United States Marshal, filed October 11, 2012 and October 17, 2012, are  
9 denied.

10 IT IS SO ORDERED.

11  
12 Dated: October 23, 2012

/s/ Dennis L. Beck  
13 UNITED STATES MAGISTRATE JUDGE