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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 REQUESTING IN FORMA
PAUPERIS STATUS AND SERVICE BY
UNITED STATES MARSHAL**

**ORDER GRANTING IN PART
PLAINTIFF’S SECOND MOTION FOR
EXTENSION OF TIME TO EFFECT
SERVICE**

ECF No. 45

SERVICE DEADLINE: MAY 17, 2013

Plaintiff Luis Valenzuela Rodriguez (“Plaintiff”) is a California state prisoner proceeding pro se in a civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed his third amended complaint on February 29, 2012. By separate order, the Court has screened Plaintiff’s third amended complaint pursuant to 28 U.S.C. § 1915A(a) and finds that it states cognizable claims for relief against Defendants Hubbard, Cate, Harrington, Biter, Soto, Phillips, Da Veiga, Ozaeta, Betzinger, Gregory, Garza, Wegman, Alic, Grissom, Speidell, Davis, Foster, Freir, and Rankin. On November 16, 2012, the Court granted Plaintiff 120 days by which to effect service of process. Pending before the Court is Plaintiff’s motion, filed February 6, 2013, requesting 1) to proceed in forma pauperis in all further proceedings and to have the United States Marshal effect service of process and 2) in the alternative, be granted an additional 120 days to complete service. ECF No. 45.

As to Plaintiff’s first request, the Court will again explain that Plaintiff is not proceeding in forma pauperis because the filing fee was paid in full. Plaintiff was presented the option of either filing the correct in forma pauperis application or paying the full filing fee, and Plaintiff opted for

1 the latter. Plaintiff is not proceeding in forma pauperis in this action. Plaintiff is not entitled to have
2 the United States Marshal effect service of process. *See* Fed. R. Civ. P. 4(c)(3) (service by the
3 United States Marshal required only when party is proceeding in forma pauperis). Plaintiff cites to
4 the Court's May 14, 2010 Order, which suggested that the United States Marshal would serve
5 process after the Court screened Plaintiff's complaint. To the extent that the order suggested that
6 Plaintiff would always have the benefit of the United States Marshal effecting service of process, the
7 order is incorrect.

8 As to Plaintiff's second request, the Court will grant Plaintiff a limited extension of time to
9 complete service of process. No further extensions of time will be granted. If Plaintiff does not
10 effect service of process in a timely manner, the Court will dismiss the action without prejudice as to
11 each Defendant.

12 Accordingly, it is HEREBY ORDERED that:

- 13 1. Plaintiff's motion, filed February 6, 2013, requesting to proceed in forma pauperis in all
14 further proceedings and to have the United States Marshal effect service of process, is
15 denied;
- 16 2. Plaintiff's motion, filed February 6, 2013, requesting an extension of time to complete
17 service of process is granted in part;
- 18 3. Plaintiff is granted up to **May 17, 2013** by which to complete service of process on
19 Defendants;
- 20 4. Failure to effect service of process by the deadline will result in dismissal of the action
21 without prejudice as to each Defendant on whom Plaintiff fails to serve process.

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23
24 IT IS SO ORDERED.

25 Dated: February 11, 2013

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