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

BENNIE RAY BROWN,

Plaintiff,

vs.

OFFICER JESS BEAGLEY, et al.,

Defendants.

Case No. 1:10-cv-01460 OWW JLT

ORDER DIRECTING U.S. MARSHAL TO
SERVE DEFENDANTS

(Doc. 13)

_____/

Plaintiff is proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed April 26, 2011, the Court instructed Plaintiff to complete the required forms for effectuating service of process on Defendants. Plaintiff has since submitted the necessary forms.

Accordingly, it is **HEREBY ORDERED** that:

1. The Clerk of the Court is directed to forward Plaintiff's submitted forms to the U.S. Marshal, along with a consent form for each named defendant (Beagley and Enns).
2. Within ten days from the date of this order, the U.S. Marshal shall notify each named defendant of the commencement of this action and to request a waiver of service in accordance with Federal Rule of Civil Procedure 4(d) and 28 U.S.C. § 566(c).
3. If a defendant waives service, he or she is required to return the signed waiver to the U.S. Marshal. The filing of an answer or a responsive motion does not relieve the defendant

1 of this requirement, and the failure to return the signed waiver to the U.S. Marshal may
2 subject the defendant to an order to pay the costs of service pursuant to Federal Rule of
3 Civil Procedure 4(d)(2).

4 4. The U.S. Marshal shall file all returned waivers of service, as well as any requests for
5 waivers of service that are returned as undelivered as soon as they are received.

6 5. If a waiver of service is not returned by a defendant within 60 days of the date of mailing
7 the request for waiver, the U.S. Marshal shall:

8 a. Personally serve process and a copy of this order on the defendant pursuant to
9 Federal Rule of Civil Procedure 4 and 28 U.S.C. § 566(c);

10 b. Within ten days after personal service is accomplished, the U.S. Marshal shall file
11 the return of service for the defendant, along with evidence of attempts to secure
12 waiver of service of process and costs subsequently incurred to effect service of
13 that defendant. Such costs shall be enumerated on the U.S.M.-285 Form and
14 shall include all the costs incurred by the U.S. Marshal to make additional
15 photocopies of the summons and the endorsed third amended complaint and to
16 prepare new U.S.M.-285 Forms, if needed. Costs of service will be taxed against
17 the defendant pursuant to Federal Rule of Civil Procedure 4(d)(2).

18 6. In the event that a defendant either waives service or is personally served, the defendant
19 is required to file a responsive pleading in accordance with Federal Rule of Civil
20 Procedure 12.

21
22 IT IS SO ORDERED.

23 Dated: May 18, 2011

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE