

1

2

3

4

5

6

7

8

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

9

10
11 LORENZO FOSSELMAN, JR.

) Case No.: 1:12-cv-01302-AWI-SAB (PC)
)
) ORDER GRANTING PLAINTIFF IN FORMA
) PAUPERIS STATUS AND FORWARDING
) PLAINTIFF THE SERVICE OF PROCESS FORMS
) FOR COMPLETION AS TO DEFENDANTS
) JOHNSON AND DIMMER
) [ECF Nos. 20, 27, 28]
)

12 Plaintiff,

13 v.

14 MATTHEW CATE, et al.,

15 Defendants.

16
17 Plaintiff Lorenzo Fosselman, Jr. is appearing pro se in this civil rights action pursuant to 42
18 U.S.C. § 1983. On August 1, 2012, this action was removed from the Sacramento County Superior
19 Court.

20 This action is proceeding on Plaintiff's Eighth Amendment claim against Defendant Johnson
21 and on Plaintiff's First Amendment retaliation claim against Defendant Dimmer.

22 On January 20, 2015, the Court directed Plaintiff to serve the complaint on Defendants
23 Johnson and Dimmer, as he was previously noted granted in forma pauperis because the filing fee was
24 made upon removal by Defendants.

25 Plaintiff has attempted unsuccessfully to serve Defendants Johnson and Dimmer. On April 8,
26 2015, Plaintiff filed a request for the United States marshal to service Defendants Johnson and
27 Dimmer. Plaintiff also seeks reconsideration of the Court's May 1, 2014, order disregarding his prior
28 request for in forma pauperis status as moot.

1 Federal Rule of Civil Procedure 4(c)(3) provides that “[a]t the plaintiff’s request, the court may
2 order that service be made by a United States marshal or deputy marshal or by a person specially
3 appointed by the court.” Fed. R. Civ. P. 4(c)(3). In addition, when a plaintiff is granted leave to
4 proceed in forma pauperis, the United States marshal, upon order of the court, is authorized to serve
5 the summons and complaint on the plaintiff’s behalf. 28 U.S.C. § 1915(d); Boudette v. Barnette, 923
6 F.2d 754, 757 (9th Cir. 1991). A request to proceed in forma pauperis need not be filed at any
7 particular time, but may be initiated at any stage of a proceeding. See Stehouwer v. Hennessey, 841
8 F.Supp. 316, 321 (N.D. Cal. 1994) (“IFP status may be acquired or lost throughout the course of the
9 litigation”), aff’d in pertinent part, Olivares v. Marshall, 59 F.3d 109 (9th Cir. 1995).

10 The Court finds that Plaintiff’s motion for leave to proceed in forma pauperis is sufficient to
11 show that he is financially unable to execute personal service of the summons and complaint, and is
12 presently in need of assistance by the United States marshal. Accordingly, in order to aid in the timely
13 administration of justice in this matter, Plaintiff will now be permitted to proceed in forma pauperis
14 pursuant to Federal Rule of Civil Procedure 4(c)(3) and 28 U.S.C. § 1915(d).

15 Based on the foregoing, it is HEREBY ORDERED that:

- 16 1. Plaintiff is granted in forma pauperis status pursuant to Rule 4(c)(3) of the Federal
17 Rules of Civil Procedure;
- 18 2. The Clerk send Plaintiff two (2) USM-285 forms, two (2) summons, a Notice of
19 Submission of Documents form, an instruction sheet and a copy of the First Amended
20 Complaint filed November 18, 2013;
- 21 3. Within thirty (30) days from the date of this order, Plaintiff shall complete the attached
22 Notice of Submission of Documents and submit the completed Notice to the Court with
23 the following documents:
 - 24 a. One completed summons for each defendant;
 - 25 b. One completed USM-285 form for each defendant;
 - 26 c. Three (3) copies of the endorsed First Amended Complaint filed November 18,
27 2013; and

28 ///

d. All CDCR Form 602 documentation submitted in relation to this case; and

Plaintiff need not attempt service on the defendants and need not request waiver of service. Upon receipt of the above-described documents, the Court will direct the United States Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

IT IS SO ORDERED.

Dated: May 18, 2015



UNITED STATES MAGISTRATE JUDGE