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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID MADDOX,)	Case No. 1:13-cv-00171-BAM PC
)	
Plaintiff,)	ORDER PROVIDING DEFENDANT WITH
)	THE OPPORTUNITY TO SHOW GOOD
vs.)	CAUSE FOR FAILING TO WAIVE
)	SERVICE
JAMES A. YATES, et al.,)	
)	
Defendants.)	
)	
)	

Plaintiff David Maddox (“Plaintiff”), a former state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on February 4, 2013.

On June 16, 2014, the Court ordered the United States Marshal to serve process on Defendant Arnellas in this case. The Marshal was directed to attempt to secure a waiver of service before attempting personal service on defendant. If a waiver of service was not returned by the defendant within sixty days, the Marshal was directed to effect personal service on the defendant in accordance with the provisions of Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c), without prepayment of costs, and to file the return of service with evidence of any attempt to secure a waiver of service and with evidence of all costs subsequently incurred in effecting personal service.

1 On November 24, 2014, the United States Marshal filed a return of service with USM-
2 285 forms showing charges of \$329.44 for effecting personal service on Defendant Arnellas.
3 (ECF No. 26.) The form shows that a waiver of service form was mailed to Defendant Arnellas
4 on July 16, 2014.

5 Pursuant to the Court's order, Defendant is required to return the waiver to the United
6 States Marshal and the filing of an answer or a motion does not relieve him/her of this obligation.
7 Defendant Arnellas did not return a waiver, which resulted in the execution of personal service
8 on November 20, 2014.

9 Defendant Arnellas filed an answer on March 3, 2015.

10 Rule 4 provides that "[a]n individual, corporation, or association that is subject to service
11 under Rule 4(e), (f), or (h) has a duty to avoid unnecessary expenses of serving the summons."
12 Fed. R. Civ. P. 4(d)(1). "If a defendant located within the United States fails, without good
13 cause, to sign and return a waiver requested by a plaintiff located within the United States, the
14 court must impose on the defendant . . . the expenses later incurred in making service. . . ." Fed.
15 R. Civ. P. 4(d)(2)(A).

16 It appears that Defendant Arnellas was given the opportunity required by Rule 4(d)(1) to
17 waive service, but failed to return the waiver to the United States Marshal, although Defendant
18 Arnellas did make an appearance in the action. The Court shall provide Defendant Arnellas with
19 the opportunity to show good cause for failing to waive service. If Defendant Arnellas either
20 fails to respond to this order or responds but fails to show good cause, the costs incurred in
21 effecting service shall be imposed.

22 Accordingly, IT IS HEREBY ORDERED that:

- 23 1. Defendant Arnellas may, within **thirty (30) days** from the date of this
24 order, show good cause for failing to waive service; and

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26 ///

27 ///

