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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES MILLNER,
Plaintiff,
v.
DR. DILEO, et al.,
Defendants.

Case No. 1:17-cv-00507-AWI-SAB (PC)
ORDER DENYING PLAINTIFF’S MOTION
TO HAVE MARSHAL’S OFFICE SERVE
SUMMONS ON DEFENDANTS
(ECF No. 17)

Plaintiff James Millner is a state prisoner appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff’s claim against Defendants Dileo, Ulit, Spaeth, and the Chief Medical Officer for deliberate indifference in violation of the Eighth Amendment, based on Plaintiff’s wrist injury.

Currently before the Court is Plaintiff motion requesting that the Court send him four USM-285 forms so that the United States Marshal can serve the summons and complaint on Defendants in this case, filed on October 27, 2017. (ECF No. 17.)

Federal Rule of Civil Procedure 4(c)(3) provides that “[a]t the plaintiff’s request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915....” Fed. R. Civ. P. 4(c)(3).

Plaintiff is not proceeding in forma pauperis in this action, and therefore is not automatically entitled to service by the Marshal here. Plaintiff previously made a showing that he

1 was unable to serve Defendant Dileo despite his diligent efforts, and the Court granted his
2 request to direct the Marshal to serve process on Defendant Dileo. (ECF No. 14.) However,
3 Plaintiff has not made any showing with respect to the other Defendants. Thus, the Court denies
4 Plaintiff's request for forms to have the Marshal initiate service on the other Defendants, at this
5 time. Instead, Plaintiff is responsible for serving those Defendants, as set forth in this Court's
6 October 3, 2017 order.

7 Accordingly, Plaintiff's motion requesting USM-285 forms for Marshall service (ECF
8 No. 17) is HEREBY DENIED.

9
10 IT IS SO ORDERED.

11 Dated: October 31, 2017



UNITED STATES MAGISTRATE JUDGE