

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GEORGE SHELDON JERCICH,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, *et al.*,

Defendants.

Case No. 1:18-cv-00032-LJO-EPG

**ORDER RE: ISSUANCE OF
SERVICE DOCUMENTS**

George Sheldon Jercich (“Plaintiff”) commenced this action on January 5, 2018, by filing a complaint and paying the required filing. (ECF No. 1). On January 16, 2018, the Clerk of the Court issued summonses for defendants named in the complaint. (ECF Nos. 4-15). Plaintiff lodged a Second Amended Complaint naming additional defendants on March 5, 2018, (ECF No. 21), which was filed on March 9, 2018, (ECF Nos. 22, 23).

Plaintiff has not filed proof of service of the summonses upon any defendant.¹ Plaintiff is reminded that it is his responsibility to effect service of process on the defendants.

The Court will direct the Clerk of the Court to issue summonses for each of the following additional defendants named in the Second Amended Complaint: Correctional Officer Zollinger,

¹ On April 5, 2018, Plaintiff filed a notice to inform the Court that several of the summonses issued on January 16, 2018, are incorrect. (ECF No. 24). Plaintiff believes that the summonses should provide the titled of the defendants. For example, Plaintiff states that the summons for Defendant Ortega, should read, “Captain Ortega,” as opposed to “Ortega.” However, a summons need only “be directed to the defendant.” *See* Federal Rules of Civil Procedure 4(a)(1)(B). Thus, the summonses as issued are correct, and must be served within the time specified by Federal Rules of Civil Procedure 4(m).

1 North Kern State Prison; Nurse Nixon, California Correctional Institution, Tehachapi; Dr. Hill,
2 California Correctional Institution, Tehachapi; Bonnie Cimentel, California Correctional
3 Institution, Tehachapi; Appeals Coordinator, California Correctional Institution, Tehachapi;
4 Warden, California Correctional Institution, Tehachapi; and “The White ‘Shot-Caller,’ inmate
5 known to ‘Kory’ at North Kern State Prison, Mainline (June 26, 2014)”. Plaintiff shall complete
6 service of process in accordance with Federal Rule of Civil Procedure 4 within **ninety (90) days**
7 from the date of service of this Order. Plaintiff shall serve a copy of this Order on each of the
8 additional defendants, in addition a summons and a copy of the Second Amended Complaint.
9 The following two sections contain instructions on how to serve the additional defendants.

10 **I. WAIVER OF SERVICE**

11 Under Federal Rule of Civil Procedure 4(d), Plaintiff may (but is not required to) notify
12 the defendants of the commencement of this action and request that they waive service of the
13 summons. If Plaintiff wishes to do this, he must mail the defendants: (1) the form entitled
14 “Notice of Lawsuit and Request for Waiver of Service for Summons”; (2) the form entitled
15 “Waiver of Service of Summons”; and (3) a copy of the second amended complaint. The
16 documents must be addressed directly to each the defendants and must be sent via first class
17 United States Mail. The Waiver of Service of Summons form must set forth the date on which
18 the request is sent and must allow the defendants at least thirty (30) days in which to return the
19 waiver to Plaintiff. If the defendants sign and return the waiver forms to Plaintiff, Plaintiff must
20 then file the forms with the Court. After filing the forms with the Court, Plaintiff need not take
21 any further steps to serve the defendants. Fed. R. Civ. P. 4(d)(4).

22 **II. PERSONAL SERVICE**

23 If either: (1) Plaintiff does not wish to request that the defendants waive service; or (2) the
24 defendants fail to return the Waiver of Service of Summons form to Plaintiff, Plaintiff must have
25 personal service effected on the defendants. Each defendant must be personally served with a
26 summons and copy of the complaint, along with a copy of this Order. ***Plaintiff may not effect***
27 ***personal service himself.*** Fed. R. Civ. P. 4(c). Service may be effected by any person who is not
28 a party to this action and who is at least eighteen years old. *Id.* The Court will provide Plaintiff

1 with a copy of Federal Rule of Civil Procedure 4. Plaintiff should review Rule 4(e)(2), which
2 addresses how personal service may be effected.

3 **III. ORDER**

4 In accordance with the above, IT IS HEREBY ORDERED that:

- 5 1. The Clerk of the Court is DIRECTED to send Plaintiff a summons for each of the
6 seven (7) additional defendant named in this action;
- 7 2. The Clerk is further DIRECTED to send Plaintiff the following:
- 8 a) A copy of the Second Amended Complaint filed March 5, 2018, (ECF No. 23);
- 9 b) A copy of the form entitled "Notice of Lawsuit and Request for Waiver of Service
10 of Summons" for each additional defendant named in this case;
- 11 c) A copy of the form entitled "Waiver of Service" for each additional defendant
12 named in this case;
- 13 d) A copy of the form entitled "Consent to Proceed Before United States Magistrate
14 Judge" with instructions; and,
- 15 e) A copy of Rule 4 of the Federal Rules of Civil Procedure;
- 16 3. Plaintiff shall complete service of process on each additional defendant within **ninety**
17 **(90) days** from the date of service of this order. Plaintiff shall serve a copy of this
18 order and a copy of the form "Consent to Proceed Before United States Magistrate
19 Judge" on each additional defendant at the time of service of the summons and
20 complaint; and,
- 21 4. Plaintiff's failure to timely complete service of the complaint on each additional
22 defendant named may result in dismissal of this action. Fed. R. Civ. P. 4(m).

23 IT IS SO ORDERED.

24 Dated: April 11, 2018

25 /s/ Eric P. Gray
26 UNITED STATES MAGISTRATE JUDGE