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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JONATHAN DEWITT MCDOWELL,  
Plaintiff,  
v.  
ATKINSON, et al.,  
Defendants.

Case No. 1:20-cv-01036-DAD-SKO (PC)  
**ORDER TO SHOW CAUSE WHY  
DEFENDANT HERNANDEZ SHOULD  
NOT BE DISMISSED FOR FAILURE  
TO EFFECTUATE SERVICE**  
21-DAY DEADLINE

Plaintiff Jonathan Dewitt McDowell is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action. On April 22, 2021, the Court issued an order directing service of process on Defendants. (Doc. 16.) On June 3, 2021, the U.S. Marshals Service filed a return of service unexecuted as to Defendant Hernandez. (Doc. 20.)

Federal Rule of Civil Procedure 4 provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

In cases involving plaintiffs proceeding *in forma pauperis*, the Court routinely orders the U.S. Marshals Service to serve the summonses and complaints on the defendants. Fed. R. Civ. P. 4(c)(3). “[A]n incarcerated *pro se* plaintiff proceeding *in forma pauperis* is entitled to rely on the U.S. Marshal for service of the summons and complaint, and . . . should not be penalized by

