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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JARMAAL LARONDE SMITH,

Plaintiff, Case No. 2:07-cv-00964 ALA (P)

vs.

LEANN CRONES, et al.,

Defendants. ORDER

/

Plaintiff Jarmaal Smith is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff also proceeds *in forma pauperis* pursuant to 28 U.S.C. § 1915.

On October 27, 2008, this Court directed the United States Marshal to notify Defendants Edward Simmerson and Scott Norton of the commencement of this action and to request a waiver of service in accordance with the provisions of Rule 4(d) of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c). (Doc. 16). The Court ordered the United States Marshal to file returned waivers of service as well as any requests for waivers of service that are returned as undelivered as soon as they are received. *Id.* As of January 7, 2009, the docket report reflects that the United States Marshal has not filed an executed or unexecuted waiver of service for either Defendant.

1 In its October 27, 2008 order, this Court further ordered that “[i]f a waiver of service is
2 not returned by a defendant within sixty days of the date of mailing the request for waiver, the
3 United States Marshal shall personally serve process upon the defendant pursuant to Rule 4 of
4 the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c) and shall command all necessary
5 assistance from the California Department of Corrections and Rehabilitation (CDCR) to execute
6 this order.” (*Id.*). The prescribed sixty day time parameter has elapsed.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The United States Marshal personally serve process and a copy of this Court’s order
9 (Doc. 16) on Defendants Edward Simmerson and Scott Norton before January 14, 2009; and,
10 2. Within ten (10) days after personal service is effected, the United States Marshal shall
11 file the return of service for Defendants Edward Simmerson and Scott Norton, along with
12 evidence of any attempts to secure a waiver of service of process and of the costs subsequently
13 incurred in effecting service on said Defendant. Said costs shall be enumerated on the USM-285
14 form and shall include the costs incurred by the United States Marshal’s office for photocopying
15 additional copies of the summons and complaint and for preparing new USM-285 forms, if
16 required. Cost of these services will be taxed against Defendant Thirakomen in accordance with
17 Rule 4(d)(2) of the Federal Rules of Civil Procedure.

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19 DATED: January 8, 2009

20 /s/ Arthur L. Alarcón
21 UNITED STATES CIRCUIT JUDGE
22 Sitting by Designation