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

AZHAR LAL,

Plaintiff,

No. CIV S-07-2060 KJM EFB P

vs.

T. FELKER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983.

On June 17, 2011, the court ordered the United States Marshal to serve process upon defendant Flores. The Marshal was directed to attempt to secure a waiver of service before personally serving the defendant. However, if a waiver of service was not returned within 60 days, the Marshal was directed to (1) personally serve defendant without prepayment of costs under Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c); and (2) file the return of service with evidence of attempts to secure a waiver and costs subsequently incurred in effecting personal service.

On November 9, 2011, the United States Marshal filed a return of service with a USM-285 form showing total charges of \$65.70 for personally serving defendant Flores. The form

1 shows the Marshal mailed defendant Flores a waiver of service form on June 22, 2011, but he
2 did not respond.

3 Rule 4 of the Federal Rules of Civil Procedure provides, in pertinent part:

4 If a defendant located within the United States fails, without good cause, to sign
5 and return a waiver requested by a plaintiff located within the United States, the
6 court must impose on the defendant...the expense later incurred in making
service; and...the reasonable expenses...of any motion required to collect those
service expenses.

7 Fed. R. Civ. P. 4(d)(2).

8 The court finds defendant Flores was given the opportunity required by Rule 4(d)(2) to
9 waive service but failed to do so.

10 Accordingly, the court hereby orders that:

11 1. Within 14 days from the date of service of this order, defendant Flores shall pay to the
12 United States Marshal the sum of \$65.70, unless within that time defendant files a written
13 statement showing good cause for his failure to waive service. The court does not intend to
14 extend this 14-day period.

15 2. The Clerk shall serve a copy of this order on the U.S. Marshal.

16 Dated: November 15, 2011.

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18 EDMUND F. BRENNAN
19 UNITED STATES MAGISTRATE JUDGE
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