

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

JAIME ARIAS-MALDONADO,)	2:08-CV-00216 JMS-BMK (PC)
)	
Plaintiff,)	ORDER DIRECTING SERVICE
)	BY THE UNITED STATES
vs.)	MARSHAL WITHOUT
)	PREPAYMENT OF COSTS
D. K. SISTO, et al.)	
)	
Defendants.)	
)	

ORDER DIRECTING SERVICE BY THE UNITED STATES MARSHAL
WITHOUT PREPAYMENT OF COSTS

Plaintiff is proceeding in forma pauperis pursuant to 28 U.S.C.

§ 1915. The Court previously ordered Plaintiff to provide information for service of process on form USM-285, sufficient copies of the Second Amended Complaint for service and completed summons forms, and a notice of compliance. Plaintiff has filed the required papers. Accordingly, IT IS HEREBY ORDERED that:

1. For each defendant to be served, the Clerk of the Court is directed to forward the following documents to the United States Marshals

Service:

- (1) One completed and issued summons;
- (2) One completed USM-285 form;

- (3) One copy of the Second Amended Complaint filed on August 4, 2008, plus an extra copy for the Marshals Service;
- (4) One copy of this order, plus an extra copy for the Marshals Service; and
- (5) One copy of the Court's consent form.

2. Within ten days from the date of this order, the Marshals Service is directed to notify the following defendants of the commencement of this action and to request a waiver of service in accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. § 566(c):

Defendant V. D. Brumsfield

Defendant Cpt. Arthur

Defendant K. Kesterson

3. The Marshals Service is directed to retain the summons and a copy of the Second Amended Complaint in its file for future use.
4. The Marshals Service shall 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.

5. If a waiver of service is not returned by a defendant within sixty days of the date of mailing the request for waiver, the Marshals Service shall:

- a. Personally serve process and a copy of this order upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c), and shall command all necessary assistance from the California Department of Corrections and Rehabilitation (CDCR) to execute this order. The Marshals Service shall maintain the confidentiality of all information provided by the CDCR pursuant to this order. In executing this order, the Marshals Service shall contact the Legal Affairs Division of CDCR and request the assistance of a Special Investigator if the Litigation Office at the institution is unable to assist in identifying and/or locating the defendant.
- b. Within ten days after personal service is effected, the Marshals Service shall file the return of service for the defendant, along with evidence of any attempts to secure a waiver of service of process and of the costs subsequently incurred in effecting service on said defendant. Said costs shall be enumerated on

the USM-285 form and shall include the costs incurred by the Marshals Service for photocopying additional copies of the summons and Second Amended Complaint and for preparing new USM-285 forms, if required. Costs of service will be taxed against the personally served defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).

6. In the event that a defendant makes an appearance in this action by filing an answer, dispositive motion, or other pleading, the Marshals Service need not personally serve that defendant.
7. In the event that a defendant either waives service or is personally served, the defendant is required to reply to the Second Amended Complaint. 42 U.S.C. § 1997e(g)(2).

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, December 8, 2009.



/S/ Barry M. Kurren
Barry M. Kurren
United States Magistrate Judge

Jaime Arias-Maldonado v. D.K. Sisto, et al., CV. NO. 2:08-CV-00216 JMS-BMK (PC); ORDER DIRECTING SERVICE BY THE UNITED STATES MARSHAL WITHOUT PREPAYMENT OF COSTS.