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

CHARLES G. REECE,

Plaintiff,

No. 2: 11-cv-2712 GEB AC P

vs.

AMRICK BASI, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this action seeking relief pursuant to 42 U.S.C. § 1983.

By order filed on March 21, 2012, the court directed the United States Marshal to serve process upon, inter alia, defendant Amrick Basi in this case. The Marshal was directed to attempt to secure a waiver of service before attempting personal service on defendant. If a waiver of service was not returned within sixty days, the Marshal was directed to effect personal service on the defendant in accordance with the provisions of Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c), without prepayment of costs, and to file the return of service with evidence of any attempt to secure a waiver of service and with evidence of all costs subsequently incurred in effecting personal service.

1           On October 31, 2012, the United States Marshal filed a return of service with a  
2 USM-285 form showing total charges of \$249.00 for effecting personal service on defendant  
3 Amrick Basi. The form shows that a waiver of service form was mailed to the defendant on  
4 March 23, 2012; returned from the prison facility on April 3, 2012; identifying defendant Basi as  
5 a contract employee no longer employed at CSP-Solano,<sup>1</sup> forwarded on April 6, 2012, from  
6 which no response was received. Thereafter, on June 25, 2012, the marshal mailed the waiver  
7 form to the defendant's last known address "per registry," again with no result, after which the  
8 form was evidently once more forwarded on June 27, 2012. When the waiver was not returned  
9 as of October 4, 2012, the marshal assigned personal service which service was executed on  
10 October 9, 2012. The individual served on defendant Basi's behalf is identified as his mother,  
11 Mrs. Basi.

12           Rule 4(d) of the Federal Rules of Civil Procedure provides, in pertinent part, as  
13 follows:

14           An individual, corporation, or association that is subject to service  
15           under Rule 4(e), (f), or (h) has a duty to avoid unnecessary  
16           expenses of serving the summons.

17           Fed. R. Civ. P. 4(d)(1).

18           If a defendant located within the United States fails, without good  
19           cause, to sign and return a waiver requested by a plaintiff located  
20           within the United States, the court must impose on the defendant:  
21           (A) the expenses later incurred in making service; and  
22           (B) the reasonable expenses, including attorney's fees, of any  
23           Motion required to collect those service expenses.

24           Fed. R. Civ. P. 4(d)(2).

25           The court finds that defendant Amrick Basi was given the opportunity required by  
26           Rule 4(d) to waive service and has failed to comply with the request. Accordingly, defendant  
27           Amrick Basi will be ordered to pay service expenses. However, the amount claimed on the

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<sup>1</sup> California State Prison-Solano.

1 USM-285 form will be reduced to reflect that service in this case was performed simultaneously  
2 with service in an unrelated case, 2:11-cv-0369 GEB AC P. While 28 C.F.R. § 0.114 provides  
3 that the service fee applies to each item served, mileage will be apportioned between the two  
4 cases in which Amrick Basi's mother was served on October 9, 2012. The \$84.00 mileage  
5 charge claimed on the USM-285 form in this case will be reduced to \$42.00, reducing the total  
6 charge to \$207.00.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Within fourteen days from the date of this order defendant Amrick Basi shall  
9 pay to the United States Marshal the sum of \$207.00, unless within that time defendant files a  
10 written statement showing good cause for his failure to waive service. The court does not intend  
11 to extend this fourteen-day period.

12 2. The Clerk of the Court is directed to serve a copy of this order on the U.S.  
13 Marshal.

14 DATED: December 3, 2012.

15 \_\_\_\_\_  
16 /s/  
ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE

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