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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GERALD SPENCE,
Plaintiff,
v.
STAMBAUGH, et al.,
Defendants.

No. 2: 14-cv-1170 WBS AC P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. On June 2, 2015, this court directed the United States Marshal to serve process in this action upon defendants Southward, Stambaugh and Voss. See ECF No. 14. The Marshal was directed to attempt to secure waivers of service before attempting personal service. If a waiver of service was not returned within sixty days, the Marshal was directed to effect personal service on each 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. The Marshal was further directed to file the return of service with evidence of any attempt to secure a waiver of service and evidence of all costs subsequently incurred in effecting personal service.

On December 29, 2015, the United States Marshal filed three returns demonstrating personal service on defendants Southward, Stambaugh and Voss, with total charges of \$132.29.

1 See ECF No. 18. The returns show that waiver of service forms were mailed to each defendant
2 on June 19, 2015, but no defendant filed a waiver.

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

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

6 (2) If a defendant located within the United States fails, without
7 good cause, to sign and return a waiver requested by a plaintiff
8 located within the United States, the court must impose on the
defendant:

9 (A) the expenses later incurred in making service; and

10 (B) the reasonable expenses, including attorney's fees, of any
motion required to collect those service expenses.

11 Fed. R. Civ. P. 4(d)(1), (2)(A), (B).

12 The court finds that defendants herein were given the opportunity required by Rule 4(d) to
13 waive service and failed to comply with the request.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. The request of the United States Marshal for reimbursement of costs associated with
16 effecting personal service of process on defendants, ECF No. 19, is granted.

17 2. Within fourteen days after the filing date of this order, defendants shall pay the United
18 States Marshal the following sums, unless within that time a defendant files a written statement
19 showing good cause for his or her failure to waive personal service (the court does not intend to
20 extend this fourteen-day period):

21 A. Defendant Southward shall pay the United States Marshal the sum of \$33.07.

22 B. Defendant Stambaugh shall pay the United States Marshal the sum of \$33.07.

23 C. Defendant Voss shall pay the United States Marshal the sum of \$66.15.

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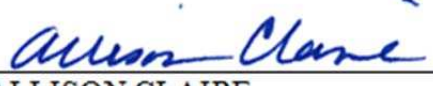
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3. The Clerk of the Court is directed to serve a copy of this order on the United States Marshal.

SO ORDERED.

DATED: January 11, 2016



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE