1		
2		
2		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	JOHN W. WILLIAMS,	No. 2:15-cv-1057-JAM-EFB P
12	Plaintiff,	
13	v.	ORDER
14 15	CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, et al.,	
16	Defendants.	
17		
18	Plaintiff is a state prisoner proceeding pro se in this civil action. He commenced this	
19	action on May 15, 2015 by filing a complaint and paying the filing fee. ECF No. 1. On June 9,	
20	2015, the court screened plaintiff's complaint pursuant to 28 U.S.C. § 1915A and found service	
21	appropriate for all defendants. ECF No. 5. However, plaintiff has not completed service of	
22	process notwithstanding having been warned of the requirement to timely complete service. See	
23	ECF Nos. 12, 18.	
24	On December 7, 2015, the court ordered plaintiff to show cause why this action should not	
25	be dismissed for his failure to serve defendants in accordance with Rule 4(m) of the Federal Rules	
26	of Civil Procedure. ECF No. 18; see also Fed. R. Civ. P. 4(m) (service of process must be	
27	/////	
28	/////	
	1	

effected within 120 days of the filing of the complaint unless plaintiff demonstrates good cause).¹
 Plaintiff has responded to the order to show cause and renews his previous requests for service of
 process by the United States Marshal. ECF Nos. 19, 20. He also seeks leave to proceed in forma
 pauperis. ECF No. 22.

Plaintiff's request for leave to proceed in forma paupers is denied because plaintiff has
been designated a "three-strikes" litigant pursuant to 28 U.S.C. § 1915(g) and his allegations (*see*ECF No. 1) do not demonstrate that he suffered from an ongoing or imminent danger of serious
physical injury at the time he filed his complaint.² *See Williams v. Soto*, No. C 12-3583 YGR
(PR), 2014 U.S. Dist. LEXIS 29967 (N.D. Cal. Mar. 7, 2014).

However, in an abundance of caution, the court will grant plaintiff another 60 days within
which to complete service of process. Plaintiff is reminded that because he is not proceeding in
forma pauperis and there is no apparent need for law enforcement to effect service of process in
order to keep the peace, *see* ECF Nos. 12, 16, the court cannot direct the United States Marshal to
effect service of process on defendants. *See* Fed. R. Civ. P 4(c)(3).

Accordingly, plaintiff's requests for leave to proceed in forma pauperis and for the United
States Marshal to effect service of process (ECF Nos. 20, 22) are denied. Plaintiff is again
cautioned that failure to timely accomplish service will result in a recommendation that this
action be dismissed.

So ordered.

19

21

22

23

24

25

20 DATED: June 7, 2016.

Lib ma

EĎMUND F. BRĚNNAN UNITED STATES MAGISTRATE JUDGE

¹ The court notes that Rule 4(m) has since been amended to allow for only 90 days to effect service of process.

²⁶ ² Pursuant to 28 U.S.C. § 1915(g), a prisoner may not proceed in forma pauperis "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury."