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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE WILLIAMS,  
Plaintiff,  
v.  
ROMERO, et al.,  
Defendants.

No. 2:17-cv-1884 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding pro se with an action under 42 U.S.C. § 1983. After the court denied plaintiff’s motion to proceed in forma pauperis, on March 27, 2018, plaintiff paid the filing fee to proceed with this case. In an order filed April 6, 2018, plaintiff was informed that he must complete service of process in accordance with Federal Rule of Civil Procedure 4 within sixty days. (ECF No. 13.) Plaintiff was provided with summonses for purposes of service of process.


Plaintiff now moves the court for an order directing the U.S. Marshal to effect service for him under Rule 4(c)(3), which provides that the court “may” order service by the Marshal. Plaintiff argues that because he is indigent and incarcerated, he is unable to pay the \$120 fee required by the Sheriff’s office to serve the summonses and complaint. (ECF No. 19.) According to the 1993 Advisory Committee Note to Rule 4 (c), instances where the court should appoint a marshal or deputy or other official person to make service include situations where a

1 law enforcement presence appears to be necessary or advisable to keep the peace, or in actions  
2 brought by the United States. Further, the court will consider whether other reasonable methods  
3 of effecting service privately have been exhausted.

4 Here, plaintiff has not shown that he has attempted to secure a waiver of service pursuant  
5 to Rule 4(d). If plaintiff is unsuccessful in obtaining a waiver of service under Rule 4(d), he may  
6 file a renewed motion for an order directing the Marshal to effect service. Plaintiff is reminded  
7 that the court's April 6 order gave him 60 days to effect service. Therefore, plaintiff must attempt  
8 to obtain a waiver of service as soon as possible or he must seek an extension of time to do so.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's May 29, 2018 Motion for Order  
10 Directing U.S. Marshal to Effect Service (ECF No. 19) is denied without prejudice.

11 Dated: June 6, 2018

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15 DEBORAH BARNES  
16 UNITED STATES MAGISTRATE JUDGE  
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20 DLB:9  
21 DB/prisoner-civil rights/will1884.rule 4  
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