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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY J. SILVEIRA, III,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

No. 2:19-cv-933-KJN
ORDER TO SHOW CAUSE

On June 24, 2019, the Court granted Plaintiff’s motion to proceed in forma pauperis, and the Clerk of Court electronically served on Plaintiff the Court’s IFP order, the summons, and the scheduling order. (ECF Nos. 3-5.) The Court’s scheduling order stated that “[w]ithin fourteen (14) days from the date of this order, plaintiff shall submit to the United States Marshal an original and five copies of the completed summons, five copies of the complaint, five copies of the scheduling order, and a completed USM-285 form, and shall file a statement with the court that such documents have been submitted to the United States Marshal.” (ECF No. 3 at p. 2). The United States Marshal was directed to then serve all process within sixty (60) days. (Id.) Further, the scheduling order required that by September 26, 2019, the parties should designate whether they consent to the magistrate judge’s jurisdiction. 28 U.S.C. § 636(c); see also ECF No. 5, (Scheduling Order, requesting parties’ designation regarding consent within 90 days).

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1 The Court's records indicate that Plaintiff failed to file a statement with the Court
2 indicating that the required documents were submitted to the United States Marshal.
3 Furthermore, the Commissioner has not yet appeared in the action. This strongly suggests that
4 Plaintiff failed to submit the process documents to the United States Marshal in compliance with
5 the Court's order. Additionally, the docket shows that Plaintiff has not yet indicated whether he
6 consents to the jurisdiction of the magistrate judge for all purposes. 28 U.S.C. § 636(c); see also
7 ECF No. 5. Plaintiff is under no obligation to consent, but a consent/decline designation assists
8 the Court in determining how the action will be administratively processed.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Within fourteen (14) days of this order, Plaintiff shall either:
- 11 a. Submit the required documents to the USM and the Court regarding service of
12 process and submit a consent/decline designation to the Court, as required by
13 the Court's scheduling order (ECF No. 5); or
- 14 b. If Plaintiff concludes he does not wish to pursue the action at this juncture, he
15 may instead file a notice of voluntary dismissal of the action without prejudice
16 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).
- 17 2. Failure to respond to this order to show cause by the required deadline will result
18 in dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b).

19 IT IS SO ORDERED.

20 Dated: October 7, 2019

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23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE

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