

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 MATTHEW J. SILVA,
11 Plaintiff(s),

Case No.: 2:16-cv-00348-RFB-NJK

12 v.

ORDER

13 STATE OF NEVADA, et al.,
14 Defendant(s).

15 Pending before the Court is the notice that this case may be dismissed for lack of service
16 pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Docket No. 26. Plaintiff responded
17 to that notice, questioning whether the State provided an accurate last known address for Defendant
18 Martinez. See Docket No. 27 at 5. In particular, Plaintiff questioned whether service was
19 attempted at the previously-identified last known address, or at the newly discovered forwarding
20 address. Id. at 4. The Court ordered the State to file under seal a notice indicating which address
21 was used, and that address provided was indeed the more recent forwarding address. Compare
22 Docket No. 34 with Docket No. 18. Plaintiff's most recent filing does not identify an additional
23 address at which to attempt service and does not propose any alternative manner to complete
24 service. See Docket No. 27.

25 The Court recently outlined the procedures and responsibilities attendant to effectuating
26 service in a prisoner civil rights case in which the plaintiff is proceeding in forma pauperis:

27 In cases involving a plaintiff proceeding in forma pauperis, service
28 on the defendant may be effectuated by the United States Marshal.
Nonetheless, it is ultimately the plaintiff's responsibility to obtain

1 an address at which the defendant may be served by the Marshal.
2 Moreover, when the Marshal is not able to effectuate service based
3 on the information provided, the plaintiff must seek further relief to
4 remedy that situation. . . . [I]t is [the plaintiff's] responsibility once
the initial service attempt proved unsuccessful to file a motion
identifying the unserved Defendant(s) and specifying a more
detailed name and/or address for said Defendant(s), or whether some
other manner of service should be attempted.

5 Gibbs v. Fey, 2017 WL 8131473, at *3 (D. Nev. Nov. 14, 2017) (internal citations and quotations
6 omitted), adopted, 2018 WL 1157544 (D. Nev. Mar. 2, 2018).

7 Given the current procedural posture, Plaintiff must file a motion specifying a more
8 detailed name and/or address to serve Defendant Martinez, or specifying some other manner of
9 service that should be attempted. Such motion must be filed by **August 27, 2018**. If that motion
10 is not filed or if a filed motion does not provide a feasible means by which service can be
11 completed, the undersigned will recommend that this case be dismissed for failure to effectuate
12 service. See Fed. R. Civ. P. 4(m); see also Gibbs, 2017 WL 8131473, at *4.

13 IT IS SO ORDERED.

14 Dated: July 27, 2018

15 
16 _____
Nancy J. Koppe
United States Magistrate Judge