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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TERRELL DESHON KEMP, SR.,
Plaintiff,
v.
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,
Defendants.

Case No. 2:18-cv-00169-RFB-PAL

ORDER

(Mot. Ext. Time Serve – ECF No. 10)

This matter is before the court on pro se Plaintiff Terrell Deshon Kemp, Sr.’s Motion for Extending Time to File Service of Process by U.S. Marshal (ECF No. 10). This Motion is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 of the Local Rules of Practice.

Mr. Kemp was a pretrial detainee in the custody of the Clark County Detention Center when this case was filed. On September 11, 2018 he filed a notice of change of address (ECF No. 11) indicating he is currently incarcerated at High Desert State Prison. He received permission to proceed in this action in forma pauperis (“IFP”). Screening Order (ECF No. 7). His current motion asks the court for an extension of 90 days to serve the defendants.

Rule 4(m) of the Federal Rules of Civil Procedure states that a defendant must be served within 90 days. However, Rule 4(m) requires the court to extend the time for service if a plaintiff shows “good cause.” Courts must apply considerable leeway when assessing whether a pro se plaintiff has shown good cause, “especially when that litigant is incarcerated.” *McGuckin v. Smith*, 974 F.2d 1050, 1058 (9th Cir. 1992), *overruled on other grounds by WMX Techs., Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997). In cases involving an indigent plaintiff, the U.S. Marshal Service (“USM”) will serve the summons and the complaint upon order of the court. Fed. R. Civ. P. 4(c)(3); 28 U.S.C. § 1915(d). But the plaintiff is still responsible for providing the USM with

1 information necessary to locate each defendant to be served. *See Walker v. Sumner*, 14 F.3d 1415,
2 1422 (9th Cir. 1994), *abrogated on other grounds, Sandin v. Conner*, 515 U.S. 472 (1995).


3 At the time the motion was filed Mr. Kemp indicated that he would soon be transferred to
4 the custody of the Nevada Department of Corrections at High Desert State Prison. He will have
5 no access to the law library for at least 30–40 days after the transition. Thus, he requests an
6 extension to serve the defendants. Plaintiff has shown good cause to extend the time for service,
7 and the court therefore extends the deadline to accomplish service until **January 4, 2019**. The
8 court will not impose a specific deadline for Plaintiff to provide the USM-285 forms to the USM;
9 however, Plaintiff is advised that the USM must be given at least 14 working days for service.
10 Plaintiff's failure to comply with this Order by serving defendants by January 18, 2019, may result
11 in a recommendation to the district judge that this case or unserved defendant(s) be dismissed
12 without prejudice.

13 For good cause appearing,

14 **IT IS ORDERED:**

- 15 1. Plaintiff Terrell Deshon Kemp, Sr.'s Motion for Extending Time to File Service of
16 Process by U.S. Marshal (ECF No. 10) is **GRANTED**.
- 17 2. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the deadline to
18 accomplish service is extended until **January 4, 2019**.
- 19 3. All other instructions stated in the Screening Order (ECF No. 7) remain in effect.
- 20 4. Plaintiff must comply with this Order by accomplishing service by **January 4, 2019**,
21 and his failure to complete service by that deadline may result in a recommendation to
22 the district judge that this case or unserved defendant(s) be dismissed without prejudice.

23 Dated this 12th day of September, 2018.

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25 
26 PEGGY A. LEEN
27 UNITED STATES MAGISTRATE JUDGE
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