

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BRIAN SCOTT PIATT,

Plaintiff,

v.

MARK NOOTH, et al.,

Defendants.

Case No. 3:10-cv-00932-BR

AMENDED ORDER

BROWN, Judge.

Plaintiff brings this civil rights action *pro se*. On January 17, 2014, this Court issued an Order to Show Cause requiring Plaintiff to show cause in writing within 14 days thereof why Plaintiff's claims against Defendant John Richardson should not be dismissed. Currently before the Court are Plaintiff's "Motion for Late Filing in Response to Order to Show Cause" [176] and Declaration [177].

The Court **GRANTS** Plaintiff's Motion and accepts Plaintiff's Declaration as a timely response to the Order to Show Cause. However, because Plaintiff's Declaration does not establish that Defendant John Richardson was adequately served with process in this action, Plaintiff's claims against him are dismissed.

In his Declaration, Plaintiff states that Susan Beal, a supervising officer with the Lane County Community Corrections, informed Plaintiff she would accept the Summons and Complaint from the U.S. Marshal's Service and deliver them to her client, John Richardson. Unfortunately, as well-meaning as Ms. Beal's assurance may have been, the Court can locate no authority to the effect that service of the Summons and Complaint on a parole or probation officer is sufficient under Fed. R. Civ. P. 4(e) or the concurrent state laws governing service.

"[E]ven if a person states that he or she is authorized to accept service, that is not proof that the person actually has the authority to do so." *U.S. Commodity Futures Trading Comm'n v. Paron Capital Mgmt., LLC*, 2012 WL 1156396 *2 (N.D. Cal., April 6, 2012). Rule 4 requires that the purported agent have actual authority for service to be adequate. See *Pochiro v. Prudential Ins. Co. of Am.*, 827 F.2d 1246, 1248-89 (9th Cir. 1987) (service on an attorney is insufficient unless attorney had actual authority from client to accept service on client's behalf).

CONCLUSION

For these reasons, the Court **GRANTS** Plaintiff's "Motion for Late Filing in Response to Show Cause Order" [176]. Because Plaintiff's response to the Order to Show Cause does not establish service of process was effected on Defendant John Richardson within the time provided by Fed. R. Civ. P. 4(m), Plaintiff's claims against Defendant John Richardson are hereby **DISMISSED without prejudice**.

The Order [178] entered by this Court on February 26, 2014, is hereby **STRICKEN** from the record and superseded by this Amended Order as it contained an error in the Defendant's name.

IT IS SO ORDERED.

DATED this 10th day of March, 2014.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge