

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

RICHARD A. OCHOTORENA,  
Plaintiff,

v.

DARREL G. ADAMS, et al.,  
Defendants.

CASE NO. 1:05-CV-01524-LJO-DLB PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
DEFENDANT ASTORGA WITHOUT  
PREJUDICE FOR FAILURE TO EFFECT  
SERVICE OF PROCESS

(DOC. 102)

\_\_\_\_\_ /

Plaintiff Richard A. Ochotorena (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The United States Marshal was unable to effect service of process on Defendant Astorga, and on April 25, 2011, returned the USM-285 form and the summons unexecuted. Doc. 101. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 9, 2011, the Magistrate Judge filed a [Findings and Recommendations](#) which was served on the parties and which contained notice to the parties that any objection to the Findings and Recommendations was to be filed within fourteen days. Doc. 102. Plaintiff filed an [Objection](#) to the Findings and Recommendations on June 6, 2011. Doc. 105.

In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed May 9, 2011, is adopted in full; and
2. Defendant Astorga is dismissed without prejudice for failure to effect service of process pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

**Dated:** June 8, 2011

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE