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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID POE,

CASE NO. 1:07-cv-00413-AWI-GBC (PC)

Plaintiff,

v.

ORDER ADOPTING FINDINGS AND
RECOMMENDATION DISMISSING
DEFENDANT GALVAN FROM ACTION

SGT. HUCKABAY, et al.,

Defendants.

(ECF No. 93)

_____ /

ORDER

Plaintiff David Poe ("Plaintiff"), an inmate in the custody of the California Department of Corrections and Rehabilitation ("CDCR"), is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

This action proceeds on Plaintiff's Third Amended Complaint, filed November 30, 2009, against fourteen defendants. (ECF No. 1.) Because Plaintiff is proceeding in forma pauperis, the Court appointed the United States Marshal to serve each Defendant with a summons and Complaint. Fed. R. Civ. Pro. 4(c)(2). The summons for Defendant Galvan was returned to the Court unexecuted. (ECF No. 47.) The Court then ordered that Plaintiff

1 provide additional information to assist the Marshal in effectuating service. (ECF No. 65.)
2 Plaintiff did so, and service was attempted again. (ECF Nos. 67 & 70.) However, the
3 Marshal was unable to effectuate service on Defendant Galvan again. (ECF No. 77.)
4 Thus, because Plaintiff was unable to provide sufficient information for service, the
5 Magistrate Judge recommended dismissal of Defendant Galvan from the action. (ECF No.
6 93.) No objections to the Findings and Recommendation were filed.

8 The matter was referred to a United State Magistrate Judge pursuant to 28 U.S.C.
9 § 636(b)(1)(B) and Local Rule 302. On September 2, 2011, the Magistrate Judge filed a
10 Findings and Recommendation recommending that Defendant Galvan be dismissed from
11 the action for failure to serve. (ECF No. 93.) The Magistrate Judge found that Plaintiff had
12 failed to fulfill his burden of providing the Marshal's service with sufficient information to
13 serve a defendant. (Id.)

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

20 Accordingly, IT IS HEREBY ORDERED that:

- 21 1. The Findings and Recommendation, filed September 2, 2011, is ADOPTED;
- 22 and
- 23 2. Defendant Galvan is DISMISSED from the action.

24 IT IS SO ORDERED.

25 Dated: January 6, 2012

26 
27 CHIEF UNITED STATES DISTRICT JUDGE