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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER I. SIMMONS,  
Plaintiff,  
v.  
GRISSOM, et al.,  
Defendants.

No. 1:07-cv-01058-DAD-SAB

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
DEFENDANTS SAUCEDA, ELLSTROM,  
AND RUFINO

(Doc. No. 187)

Plaintiff Christopher I. Simmons is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

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 June 6, 2016, the assigned magistrate judge filed findings and recommendations recommending dismissal of defendants Saucedo, Ellstrom, and Rufino, without prejudice, pursuant to Federal Rule of Civil Procedure 4(m). (Doc. No. 187.) Those findings and recommendations were served on the parties and contained notice objections were to be filed within thirty days. Plaintiff filed objections to the findings and recommendations on September 16, 2016. (Doc. No. 207.)

In his objections plaintiff casts his inability to serve defendants Saucedo, Ellstrom, and Rufino in dire terms, complaining that the U.S. Marshal has failed to exercise “all of its powers”

1 to carry out service of process on these defendants, seeking sanctions against the California  
2 Department of Corrections and Rehabilitation (“CDCR”) for obstruction of justice with respect to  
3 service of these defendants, suggesting that this court has somehow failed to take steps to  
4 effectuate service of his complaint and asserting that he will suffer prejudice if these three  
5 defendants are dismissed due to his failure to provide sufficient information to allow the U.S.  
6 Marshal to effectuate service.<sup>1</sup> (Doc. No. 207 at 1-5.)

7 Service of the complaint in this civil rights action on several named defendants was found  
8 to be appropriate on July 11, 2013. (Doc. No. 54.) Over three years have passed and despite the  
9 attempts of the U.S. Marshal as well as the efforts of CDCR, both of which are fully discussed in  
10 the magistrate judge’s findings and recommendations, these defendants have not been able to be  
11 served. Plaintiff has been given a number of opportunities to provide sufficient information to  
12 assist the U.S. Marshal in effectuating service on these three named defendants. He has simply  
13 been unable to do so.<sup>2</sup> Under these circumstances and in light of the lengthy passage of time  
14 without plaintiff providing sufficient information for service of process, plaintiff has failed to  
15 show good cause.

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

20 For the reasons set forth above:

- 21 1. The findings and recommendations filed on June 6, 2016 (Doc. No. 187) are adopted  
22 in full; and

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23 <sup>1</sup> Plaintiff also objects to the court’s reference to defendant Ellstrom, contending that this  
24 defendant is actually named “T. Elstrum.” (Doc. No. 207 at 2.) However, it is plaintiff who has  
25 named this defendant as “T. Ellstrom.” (Doc. No. 45 at 1; Doc. No. 80.)

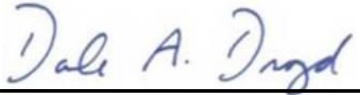
26 <sup>2</sup> The undersigned also notes that the CDCR is not a defendant in this case. Moreover, the three  
27 individual defendants in question are being dismissed without prejudice. Should plaintiff locate  
28 information about where these defendants may be served while this case is pending, he may  
request the assigned magistrate judge allow a renewed opportunity for the U.S. Marshals to effect  
service.

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2. Defendants Saucedo, Ellstrom, and Rufino are dismissed from this action, without prejudice, pursuant to Federal Rule of Civil Procedure 4(m). The Clerk of Court is directed to terminate these three defendants from this action.

IT IS SO ORDERED.

Dated: October 31, 2016

  
UNITED STATES DISTRICT JUDGE