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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK BLACKSHIRE,  
Plaintiff,  
v.  
SACRAMENTO COUNTY SHERIFF,  
Defendant.

No. 2:15-cv-1123 MCE CKD PS

FINDINGS AND RECOMMENDATIONS

This action was referred to the undersigned pursuant to Local Rule 302(c)(21). As provided by Federal Rule of Civil Procedure 4(m), the court may dismiss an action where service of summons is not made within 90 days after the filing of the complaint. This action was filed May 26, 2015. Defendant has yet to be properly served with summons.

By order filed September 21, 2015, the District Court referred this matter to the court's Pro Bono Program director to locate an attorney to represent plaintiff. When those efforts were unavailing, the District Court by order filed May 26, 2016 directed plaintiff to serve defendant with summons within 45 days. At the status conference held on July 20, 2016, the court advised plaintiff that defendant had not yet been properly served and directed plaintiff to serve summons on defendant in accordance with Federal Rule of Civil Procedure 4 no later than August 24, 2016. Although plaintiff filed a purported return of summons executed, the court on August 11, 2016 again advised plaintiff that defendant had not been properly served with summons, reminded

1 plaintiff that summons must be served by August 24, 2016, and further advised plaintiff that  
2 failure to do so would result in a recommendation of dismissal.

3 Plaintiff has failed to comply with the court's orders and has not served defendant in  
4 compliance with Federal Rule of Civil Procedure 4.

5 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without  
6 prejudice.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
9 after being served with these findings and recommendations, any party may file written  
10 objections with the court and serve a copy on all parties. Such a document should be captioned  
11 "Objections to Findings and Recommendations." Any reply to the objections shall be served and  
12 filed within ten days after service of the objections. The parties are advised that failure to file  
13 objections within the specified time may waive the right to appeal the District Court's order.

14 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: August 29, 2016

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18 CAROLYN K. DELANEY  
19 UNITED STATES MAGISTRATE JUDGE

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