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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Benjamin Robert Taylor, an individual,)
Plaintiff,)
vs.)
State of Arizona; et al.,)
Defendants.)

No. CIV 08-139-PHX-JAT (GEE)
REPORT AND RECOMMENDATION

The plaintiff in this action claims his Eighth Amendment rights were violated when the defendants denied him the use of his wheelchair and medications while he was incarcerated in the Arizona State Prison Complex in Florence, Arizona. He further claims his treatment violated his rights under Title II of the Americans with Disabilities Act of 1990.

On December 12, 2008, this court issued a service order which ordered service of the plaintiff’s complaint and warned that “[i]f Plaintiff does not either obtain a waiver of service of the summons or complete service of the Summons and Second Amended Complaint on a Defendant within 120 days of the filing of the Complaint or within 60 days of the filing of this Order, whichever is later, the action may be dismissed as to each Defendant not served.” (Doc. # 16) (citing Fed.R.Civ.P. 4(m); LRCiv 16.2(b)(2)(B)(I)). The deadlines passed, but the plaintiff was unable to obtain a waiver or complete service on a number of defendants: Robert Stewart, Jane Doe Stewart, John Doe Struebeck, Jane Doe Struebeck, John Doe Long,

1 Jane Doe Long, John Doe Love, Jane Doe Love, John Doe Lewis, Jane Doe Lewis, John Doe
2 Munz, Jane Doe Munz, John Doe Grabowski, Jane Doe Grabowski, and John and Jane Does
3 I-X.

4 On June 18, 2009, this court issued the plaintiff an order to show cause why these
5 defendants should not be dismissed. On June 30, the plaintiff filed a response stating he has
6 no objection to these defendant being dismissed from this action without prejudice.

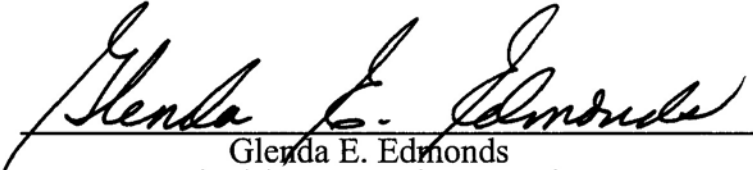
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8 RECOMMENDATION

9 The Magistrate Judge recommends that the District Court issue an order dismissing
10 without prejudice the following defendants: Robert Stewart, Jane Doe Stewart, John Doe
11 Struebeck, Jane Doe Struebeck, John Doe Long, Jane Doe Long, John Doe Love, Jane Doe
12 Love, John Doe Lewis, Jane Doe Lewis, John Doe Munz, Jane Doe Munz, John Doe
13 Grabowski, Jane Doe Grabowski, and John and Jane Does I-X. *See* Fed.R.Civ.P. 4(m);
14 LRCiv 16.2(b)(2)(B)(I).

15 Pursuant to 28 U.S.C. §636 (b), any party may serve and file written objections within
16 10 days of being served with a copy of this Report and Recommendation. If objections are
17 not timely filed, they may be deemed waived.

18 The Clerk is directed to send a copy of this Report and Recommendation to the
19 plaintiff and the defendants.

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21 DATED this 17th day of July, 2009.

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26 Glenda E. Edmonds
27 United States Magistrate Judge
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