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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Christopher Edward Briones,

Plaintiff,

vs.

Dora B. Schriro; et. al.,

Defendants.

No. CV-09-01989-PHX-ROS (JRI)

**ORDER**

On February 3, 2011, United States Magistrate Judge Irwin issued a Report and Recommendation. (Doc. 47). On February 14, 2011, Plaintiff filed a motion for extension to file objections, which was denied. (Docs. 48, 49). Plaintiff has not objected to the Report and Recommendation.

A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). Where any party has filed timely objections to the magistrate judge's report and recommendations, the district court’s review of the part objected to is to be *de novo*. *Id.*; *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (“Following *Reyna-Tapia*, this Court concludes that *de novo* review of factual and legal issues is required if objections are made, but not otherwise.”) (internal quotations and citations omitted).

1 No objections being made, the Court will adopt the Report and Recommendation in  
2 full.

3 Accordingly,

4 **IT IS ORDERED** the Report and Recommendation (Doc. 47) is **ADOPTED**.

5 **IT IS FURTHER ORDERED** Defendants Gordon, Ickes, Burke, Shriro and Stewart  
6 are **DISMISSED** for failure to effect timely service.

7 **IT IS FURTHER ORDERED:**

8 (1) Defendant Haley is ordered to respond to the surviving claims in the First  
9 Amended Complaint as recommended by Magistrate Judge Irwin in the Report and  
10 Recommendation.

11 (2) The Clerk of the Court shall send Plaintiff a service packet including both  
12 summons and request for waiver forms for said Defendant.

13 (3) Plaintiff shall complete and return the service packet to the Clerk of the Court  
14 within 20 days of the date of the filing of this Order. The United States Marshal will not  
15 provide service of process if Plaintiff fails to comply with this Order.

16 (4) The United States Marshal shall retain the Summons, a copy of the First Amended  
17 Complaint, a copy of this Order, and a copy of Magistrate Judge Irwin's Report and  
18 Recommendation (Doc. 12) for future use.

19 (5) The United States Marshal shall notify Defendant Haley of the commencement of  
20 this action and request waiver of service of the summons pursuant to Rule 4(d) of the Federal  
21 Rules of Civil Procedure. The notice shall include a copy of this Order and a copy of Judge  
22 Irwin's Report and Recommendation (Doc. 12). The Marshall shall file waivers of service  
23 of the summons or requests for waivers that were returned as undeliverable as soon as they  
24 are received. If a waiver of service of summons is not returned by Defendants within thirty  
25 days from the date the request for waiver was sent by the Marshal, the Marshal shall:

26 (a) Personally serve copies of the Summons, the First Amended Complaint, this  
27 Order, and Judge Irwin's Report and Recommendation upon Defendants pursuant to Rule  
28 4(e)(2) of the Federal Rules of Civil Procedure.

1 (b) Within ten days after personal service is effected, file the return of service  
2 for the Defendants, along with evidence of the attempt to secure a waiver of service of the  
3 summons and of the costs subsequently incurred in effecting service upon the Defendants.  
4 The costs of service shall be enumerated on the return of service form (USM-285) and shall  
5 include the costs incurred by the Marshal for photocopying additional copies of the  
6 Summons, First Amended Complaint, this Order, and the Report and Recommendation, and  
7 for preparing new process receipt and return forms, if required. Costs of service will be  
8 taxed against the personally served Defendant pursuant to Rule 4(d)(2) and (5) of the Federal  
9 Rules of Civil Procedure, unless otherwise ordered by the Court.

10 (6) Defendants who agree to waive service of the Summons and such amended  
11 complaint shall return signed waiver forms to the United States Marshal, and not to Plaintiff.

12 (7) Said Defendants shall answer the First Amended Complaint or otherwise respond  
13 by appropriate motion within the time provided by the applicable provisions of Rule 12(a)  
14 of the Federal Rules of Civil Procedure.

15 (8) Any answer or responsive pleading shall state the specific Defendant(s) by name  
16 on whose behalf it is filed. The Court may strike any answer, responsive pleading, or other  
17 motion or paper that does not identify the specific Defendant(s) by name on whose behalf  
18 it is filed.

19 DATED this 1<sup>st</sup> day of April, 2011.

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23 Roslyn O. Silver  
24 Chief United States District Judge  
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