

1 factual findings; the Court then may decide the dispositive motion on the applicable law.
2 Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979) (citing Campbell v. United States
3 Dist. Court, 501 F.2d 196 (9th Cir. 1974)).

4 By failing to object to a Report and Recommendation, a party waives its right to
5 challenge the Magistrate’s factual findings, but not necessarily the Magistrate’s legal
6 conclusions. Baxter, 923 F.2d at 1394; see also Turner v. Duncan, 158 F.3d 449, 455 (9th
7 Cir. 1998) (failure to object to Magistrate’s legal conclusion “is a factor to be weighed in
8 considering the propriety of finding waiver of an issue on appeal”); Martinez v. Ylst, 951
9 F.2d 1153, 1156 (9th Cir. 1991) (citing McCall v. Andrus, 628 F.2d 1185, 1187 (9th Cir.
10 1980)).

11 **DISCUSSION¹**

12 After conducting a thorough legal analysis, the Magistrate Judge concluded that
13 Petitioner’s claims against Defendants Clark and Jorgenson are subject to dismissal without
14 prejudice for Plaintiff’s failure to effect service. (Doc. 82.) The Magistrate Judge reviewed
15 Petitioner’s failure to properly serve these Defendants, as well as his failure to show good
16 cause or excusable neglect to justify his failure. (Id. at 2-3.) Petitioner raises no objection
17 to the Magistrate Judge’s factual or legal determinations, and after review the Court finds that
18 the Magistrate Judge properly concluded that Petitioner’s failure to timely serve these
19 Defendants justifies their dismissal without prejudice from Plaintiff’s suit.

20 Therefore, the Court hereby incorporates and adopts the Magistrate Judge’s Report
21 and Recommendation. (Doc. 82.)

22 **CONCLUSION**

23 For the reasons set forth above,

24 **IT IS HEREBY ORDERED** that the Court adopts the Report and Recommendation
25 of the Magistrate Judge (Doc. 82).

26 **IT IS FURTHER ORDERED** that Defendants Clark and Jorgenson are hereby
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28 ¹The factual and procedural history of this case is set forth in the Magistrate
Judge’s Report and Recommendation (Doc. 82).

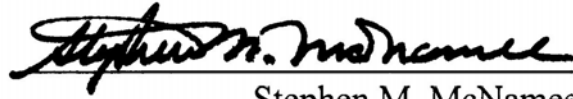
1 **dismissed without prejudice.**

2 **IT IS FURTHER ORDERED** directing the Clerk of Court to enter judgment in favor
3 of Defendants and terminate this action.

4 DATED this 26th day of April, 2013.

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Stephen M. McNamee
Senior United States District Judge

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