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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Joey Frank Montoya,

Plaintiff,

v.

Unknown Saeg, et al.,

Defendants.

No. CV-13-01491-PHX-ROS

ORDER

On April 8, 2014, Magistrate Judge James F. Metcalf issued a Report and Recommendation (“R&R”) recommending this case be dismissed without prejudice based on Plaintiff’s failure to complete service. (Doc. 17). Instead of objecting to the R&R, Plaintiff filed a motion asking the marshals be instructed to attempt service again. (Doc. 19). Normally, the Court would grant Plaintiff’s request and attempt to complete service. However, in another case also filed by Plaintiff, the Court received notice that Plaintiff’s mailing address is no longer valid. (Doc. 21 in CV-13-1575). Based on that notice, it would be futile to take any further action in this case. *See Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988) (“An order to show cause why dismissal was not warranted or an order imposing sanctions would only find itself taking a round trip tour through the United States mail.”). Therefore, the R&R will be rejected and the motion requesting service will be denied. But pursuant to Rule 41(b), this case will be dismissed based on Plaintiff’s failure to keep his address updated.

Accordingly,

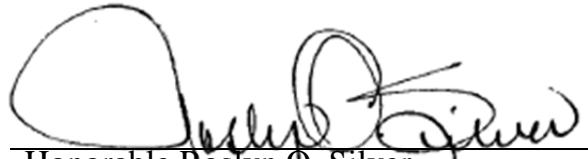
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IT IS ORDERED the Report and Recommendation (Doc. 17) is **REJECTED**.

IT IS FURTHER ORDERED the Motion to Re-Serve Defendant (Doc. 19) is **DENIED**.

IT IS FURTHER ORDERED Clerk of Court shall enter a judgment of dismissal without prejudice.

Dated this 2nd day of September, 2014.



Honorable Roslyn O. Silver
Senior United States District Judge