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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JASON SAUNDERS,

Plaintiff,

v.

J.W. FAIRMAN, et al.,

Defendants.

CASE NO. 1:02-CV-05806-OWW-DLB PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
DEFENDANTS FAIRMAN, BINGHAM,
POWERS, WOODS, JENNINGS, AND
SANDERS (DOC. 111)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

Plaintiff Jason Saunders (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff requested service by the United States Marshal to effect service on Defendants J. W. Fairman, Bingham, Powers, Woods, Jennings, and Sanders. On September 17, 2009, the Court ordered Plaintiff to provide the locations of these Defendants. Doc. 111. On October 1, 2009, Plaintiff responded by stating that he was unable to do so because of deprivation of his legal property due to alleged retaliation by Defendants at California Substance Abuse Treatment Facility. Plaintiff declared that once he transferred to a different prison, he would be able to provide this information. However, more than a year has passed, and Plaintiff has not provided the locations of the above listed Defendants for the United States Marshal to effect service.

Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure,

If a defendant is not served within 120 days after the complaint is filed, the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

1 Accordingly, it is HEREBY RECOMMENDED that Defendants J. W. Fairman,
2 Bingham, Powers, Woods, Jennings, and Sanders be DISMISSED without prejudice for failure
3 to effect service of process.

4 These Findings and Recommendations will be submitted to the United States District
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen**
6 **(14) days** after being served with these Findings and Recommendations, the parties may file
7 written objections with the Court. The document should be captioned "Objections to Magistrate
8 Judge's Findings and Recommendations." The parties are advised that failure to file objections
9 within the specified time may waive the right to appeal the District Court's order. *Martinez v.*
10 *Ylst*, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

11 IT IS SO ORDERED.

12 Dated: **June 27, 2011**

 /s/ **Dennis L. Beck**
 UNITED STATES MAGISTRATE JUDGE