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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MELVIN RAY BRUMMETT, JR.,

Plaintiff,

v.

ROBERT SILLEN, et al.,

Defendants.

CASE NO. 1:06-CV-01255-LJO-DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
DEFENDANT DOE 1 WITHOUT
PREJUDICE (DOC. 55)

ORDER DISREGARDING PLAINTIFF'S
MOTION TO DISMISS DEFENDANT DOE 1
AS MOOT
(DOC. 57)

Plaintiff Melvin Ray Brummett, Jr., (“Plaintiff”) is a California state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s amended complaint, filed September 2, 2009, against Defendants S. Kaur and Doe 1. Plaintiff did not submit sufficient information for the United States Marshal to effect service of process on Defendant Doe 1. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 13, 2011, the Magistrate Judge filed a [Findings and Recommendations](#) which was served on the parties and which contained notice to the parties that any objection to the Findings and Recommendations was to be filed within thirty days. Doc. 55. On December 29, 2011, Plaintiff filed a [motion](#) to voluntarily dismiss Defendant Doe 1 without prejudice. Doc. 57. The Court construes the motion as Plaintiff declining to object to the Findings and Recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed December 13, 2011, is adopted in full;
2. Defendant Doe 1 is dismissed without prejudice for failure to effect service of process pursuant to Rule 4(m) of the Federal Rules of Civil Procedure; and
3. Plaintiff's motion to voluntarily dismiss Defendant Doe 1, filed December 29, 2011, is disregarded as moot.

IT IS SO ORDERED.

Dated: January 3, 2012

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE