

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL J. COE,

Plaintiff,

v.

J. YATES, et al.,

Defendants.

CASE NO. 1:07-cv-00683-AWI-DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
DEFENDANTS DEFRANCE AND VOSS
FROM ACTION WITHOUT PREJUDICE

(Docs. 38, 44)

_____ /

Plaintiff Michael J. Coe (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On August 21, 2009, the Magistrate Judge filed a [Findings and Recommendations](#) that recommended Defendants Voss and Defrance be dismissed pursuant to Rule 4(m) of the Federal Rules of Procedure. The Findings and Recommendations were served on Plaintiff and contained notice to Plaintiff that any objection to the Findings and Recommendations was to be filed within thirty days. Plaintiff filed an [Objection](#) to the Findings and Recommendations on October 7, 2009.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a

1 de novo review of this case. Having carefully reviewed the entire file, the Court finds the
2 Findings and Recommendations to be supported by the record and by proper analysis. In the
3 objections, Petitioner contends that because he is a incarcerated, he should not be required to
4 provide any further information about Defendants other than the fact they are employed by the
5 CDCR. A pro se prisoner plaintiff is entitled to rely upon the United States Marshals Service to
6 effect proper service. See Pruett v. Blandford, 912 F.2d 270, 275 (9th Cir.1990). However, it is
7 Plaintiff's responsibility to provide the Marshals Service with information necessary to identify
8 each defendant to be served. Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir.1994), abrogated
9 on other grounds, Sandin v. Conner, 515 U.S. 472 (1995); Caballero v. Gonzalez, 2009 WL
10 3876293, at *3 (C.D.Cal. 2009); Brush v. Harper, 2009 WL 256380, at *1 (E.D.Cal. 2009),
11 adopted by 2009 WL 902265 (E.D.Cal. 2009); Schrubb v. Tilton, 2009 WL 113022, at *2
12 (N.D.Cal. 2009). Thus, the objections offer no reason to not adopt the Findings and
13 Recommendations.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The Findings and Recommendations, filed August 21, 2009, is adopted in full;
16 and
- 17 2. Defendants Voss and DeFrance are dismissed from this action without prejudice
18 for Plaintiff's failure to provide information sufficient for the United States
19 Marshal to effect service of process.

20
21
22 IT IS SO ORDERED.

23 **Dated: December 7, 2009**

24 /s/ Anthony W. Ishii
25 CHIEF UNITED STATES DISTRICT JUDGE
26
27
28