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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

RODNEY LAMONT DOWD,	CASE NO. 1:07-CV-01505-OWW-DLB PC
Plaintiff,	FINDINGS AND RECOMMENDATION
v.	RECOMMENDING DISMISSAL OF
JAMES A. YATES, et al.,	DEFENDANT ARGUERRALDE FROM
Defendants.	ACTION WITHOUT PREJUDICE
	(DOC. 80)
	OBJECTIONS DUE WITHIN FOURTEEN
	DAYS

**Findings And Recommendation**

Plaintiff Rodney Lamont Dowd (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On June 8, 2010, the Court directed the United States Marshal to effect service of process on Defendant J. Arguerralde on behalf of Plaintiff. Doc. 79. On August 20, 2010, the summons was returned unexecuted, and the USM-285 form was returned to the Court. Doc. 80. The United States Marshal indicated on the form that no individual by that name was employed at Pleasant Valley State Prison, where the events giving rise to this action occurred. *Id.* Additionally, the CDC locator could find no such individual by that name in the database. *Id.*

This was the third attempt to serve process on this Defendant. Plaintiff had previously failed to correctly spell the Defendant’s name. As informed by the Court, Plaintiff is required to provide sufficient information for the United States Marshal to effect service. *See Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994), *abrogated in part on other grounds, Sandin v.*

1 *Conner*, 515 U.S. 472 (1995). Plaintiff was unable to do so. Accordingly, the Court will  
2 recommend dismissal of Defendant Arguerralde from this action without prejudice pursuant to  
3 Federal Rule of Civil Procedure 4(m).

4 Based on the foregoing, it is HEREBY RECOMMENDED that Defendant Arguerralde be  
5 dismissed from this action without prejudice.

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

13 IT IS SO ORDERED.

14 **Dated: December 8, 2010**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

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