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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ALFRED LOMBARDELLI,

Plaintiff,

v.

K. HALSEY, et al.,

Defendants.

CASE NO. 1:08-CV-00658-AWI-DLB PC

FINDINGS AND RECOMMENDATION  
RECOMMENDING DISMISSAL OF  
DEFENDANT T. HEBRON WITHOUT  
PREJUDICE FOR FAILURE TO EFFECT  
SERVICE OF PROCESS

OBJECTIONS, IF ANY, DUE WITHIN  
EIGHTEEN DAYS

Plaintiff Alfred Lombardelli (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s second amended complaint, filed March 10, 2009. Docs. 15, 18. On June 2, 2009, the Court issued an order directing the United States Marshal to initiate service of process on Defendant T. Hebron. Doc. 22. The Marshal Service was unable to locate Defendant T. Hebron, and returned the summons unexecuted on June 25, 2009. Doc. 23. On February 2, 2011, the Court issued an order to show cause within thirty days why Defendant T. Hebron should not be dismissed for failure to effect service of process. Plaintiff has not responded to this Court’s order.

Pursuant to Rule 4(m),

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           Where a pro se plaintiff fails to provide the Marshal with accurate and sufficient  
2 information to effect service of the summons and complaint, the Court's *sua sponte* dismissal of  
3 the unserved defendants is appropriate. *Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994)  
4 (quoting *Puett v. Blandford*, 912 F.2d 270, 275 (9th Cir. 1990)), *abrogated in part on other*  
5 *grounds*, *Sandin v. Conner*, 515 U.S. 472 (1995).

6           Accordingly, it is HEREBY RECOMMENDED that Defendant T. Hebron be dismissed  
7 from this action without prejudice for failure to effect service of process pursuant to Federal Rule  
8 of Civil Procedure 4(m).

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

16           IT IS SO ORDERED.

17           Dated: March 22, 2011

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE