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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREW R. LOPEZ,

Plaintiff,

v.

FLOREZ, et al.,

Defendants.

Case No. 1:08-cv-01975-LJO-JLT (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
DEFENDANT “VERONICA” WITHOUT
PREJUDICE FOR LACK OF SERVICE**

(Doc. 66).

Plaintiff is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. (Doc. 1). Despite several attempts by the U.S. Marshall’s Service (“USMS”) to serve Defendant “Veronica,” service could not be accomplished.¹ (Doc. 66 (citing Docs. 33, 34, 35, 40, 65)).

On August 15, 2012, Magistrate Judge Thurston issued Findings and Recommendations to dismiss Defendant “Veronica” without prejudice for lack of service. (Doc. 66). The Findings and Recommendations explained that Federal Rules of Civil Procedure section 4(m) requires that

¹ Magistrate Judge Thurston’s Findings and Recommendations note that Plaintiff has only been able to provide the name “Veronica,” but has never known if that was a first or last name. (Doc. 69 (citing Doc. 36 at 1)). There were two other Defendants named in Plaintiff’s action who were eventually served.

1 service be accomplished within 120 days after the complaint is filed. (Doc. 66). Given that
2 Plaintiff provided the Court with little information about Defendant “Veronica,” that the USMS
3 made several attempts at service over the last seven months and later certified that “Veronica”
4 could not be located, Magistrate Judge Thurston recommended that Defendant “Veronica” be
5 dismissed.
6

7 Plaintiff was advised in the August 24, 2012 Findings and Recommendations that he had
8 14 days to object. (Doc. 66). Despite the Court’s warning, Plaintiff did not submit objections to
9 the Magistrate Judge’s findings and recommendations.

10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Britt v. Simi Valley
11 United School Dist., 708 F.2d 452, 454 (9th Cir. 1983), the Court has conducted a de novo review
12 of the case. Having carefully, reviewed the entire file, the Court finds that the Findings and
13 Recommendations are supported by the record and by proper analysis.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The Findings and Recommendations filed August 24, 2012 are **ADOPTED IN**
16 **FULL**; and
- 17 2. Plaintiff’s action against Defendant “Veronica” **only** is **DISMISSED WITHOUT**
18 **PREJUDICE**.

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23 IT IS SO ORDERED.

24 Dated: September 11, 2012

25 /s/ Lawrence J. O’Neill
26 UNITED STATES DISTRICT JUDGE
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