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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PHILLIP T. RICKER,

Plaintiff,

v.

CASE NO. 1:09-cv-01433-LJO-GBC (PC)

FINDINGS AND RECOMMENDATION
RECOMMENDING DISMISSAL OF
DEFENDANTS ALAAPE AND TELLORBES

CALIFORNIA DEPARTMENT OF
CORRECTIONS MEDICAL
DEPARTMENT, et al.,

Defendants.

PLAINTIFF'S OBJECTIONS DUE 7/11/2011

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Plaintiff Phillip T. Ricker ("Plaintiff") is a 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 Complaint, filed August 14, 2009, against Defendants LVN Tellorbes, Sgt. Anderson, RN Hicks, La Vann, LVN E. Lopez, C/O Stinger, LVN Alaape, and C/O Lambert for deliberate indifference to Plaintiff's medical needs in violation of the Eighth Amendment. (ECF No. 1.) Because Plaintiff is proceeding in forma pauperis, the Court must appoint the United States Marshal to serve each Defendant with a summons and complaint. Fed. R. Civ. Pro. 4(c)(2).

Plaintiff submitted completed USM-285 forms indicating that Defendants Alaape and Tellorbes could be served at Corcoran State Prison. However, when service was attempted at Corcoran, the forms were returned unexecuted with a notation that neither Defendant was ever employed there nor could either be located by the "CDC locator

1 database.” (ECF No. 23.) The Court ordered Plaintiff to provide additional information to
2 assist the Marshal in serving LVN Alaape and LVN Tellorbes and warned him that failure
3 to provide such information could result in dismissal of those Defendants. (ECF No. 25.)
4 Plaintiff was given until May 16, 2011 to provide such information.

5 To date, Plaintiff has not filed any such additional information regarding Defendants
6 Alaape and Tellorbes. As stated previously by the Court, Plaintiff bears the burden of
7 providing the Marshal’s service with sufficient information to serve a defendant. See
8 Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994). Plaintiff was given ample
9 opportunity to do so in this case, and has failed to comply or otherwise respond to the
10 Court Order.

11 Accordingly, based on the foregoing, the Court HEREBY RECOMMENDS that
12 Defendant Alaape and Defendant Tellorbes be dismissed from this action.

13 These Findings and Recommendation will be submitted to the United State District
14 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(l).
15 Within thirty (30) days after being served with these Findings and Recommendation,
16 Plaintiff may file written objections with the Court. The document should be captioned
17 “Objections to Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that
18 failure to file objections within the specified time may waive the right to appeal the District
19 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 IT IS SO ORDERED.

21 Dated: June 6, 2011


22 UNITED STATES MAGISTRATE JUDGE