

1
2 UNITED STATES DISTRICT COURT
3
4 EASTERN DISTRICT OF CALIFORNIA

5 PHILLIP T. RICKER, CASE NO. 1:09-cv-01433-LJO-GBC (PC)

6 Plaintiff,

7 v.

8 ORDER ADOPTING FINDINGS AND
RECOMMENDATION DISMISSING
DEFENDANTS ALAAPE AND TELLORBES

9 CALIFORNIA DEPARTMENT OF FROM ACTION
10 CORRECTIONS MEDICAL
DEPARTMENT, et al.,

(ECF No. 28)

11 Defendants.

12 _____ /
13 **ORDER**

14
15 Plaintiff Phillip T. Ricker ("Plaintiff"), an inmate in the custody of the California
16 Department of Corrections and Rehabilitation ("CDCR"), is proceeding pro se and in forma
17 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

18 This action proceeds on Plaintiff's Complaint, filed August 14, 2009, against
19 Defendants LVN Tellorbes, Sgt. Anderson, RN Hicks, La Vinn, LVN E. Lopez, C/O Stinger,
20 LVN Alaape, and C/O Lambert for deliberate indifference to Plaintiff's medical needs in
21 violation of the Eighth Amendment. (ECF No. 1.) Because Plaintiff is proceeding in forma
22 pauperis, the Court appointed the United States Marshal to serve each Defendant with a
23 summons and Complaint. Fed. R. Civ. Pro. 4(c)(2). The summonses for Defendants
24 Tellorbes and Alaape were returned to the Court unexecuted. (ECF No. 23.) The Court
25 then ordered that Plaintiff provide additional information to assist the Marshal in
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27

1 effectuating service. (ECF No. 25.) Plaintiff failed to respond to the Order. Thus, the
2 Magistrate Judge recommended dismissal of Defendants Tellorbes and Alaape from the
3 action. (ECF No. 28.) No objections to the Findings and Recommendation were filed.

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5 The matter was referred to a United State Magistrate Judge pursuant to 28 U.S.C.
6 § 636(b)(1)(B) and Local Rule 302. On June 6, 2011, the Magistrate Judge filed a Findings
7 and Recommendation recommending that Defendants Tellorbes and Alaape be dismissed
8 from the action for failure to serve. (ECF No. 28.) The Magistrate Judge found that
9 Plaintiff had failed to fulfill his burden of providing the Marshal's service with sufficient
10 information to serve a defendant. (Id.)

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12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has
13 conducted a de novo review of this case. Having carefully reviewed the entire file, the
14 Court finds the Findings and Recommendation to be supported by the record and by
15 proper analysis.

16 Accordingly, IT IS HEREBY ORDERED that:

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18 1. The Findings and Recommendation, filed June 6, 2011, is ADOPTED;
19 2. Defendant Tellorbes is DISMISSED from the action; and
20 3. Defendant Alaape is DISMISSED from the action.

21
22 IT IS SO ORDERED.

23 Dated: August 5, 2011

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE