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

OMAR AGEEL,
Plaintiff,
vs.
F. GONZALES, et al.,
Defendants.

Case No. 1:09-cv-02076 JLT (PC)
ORDER DISMISSING THE MATTER AS TO
DEFENDANTS THORNBERRY AND
KNIGHT

_____ /

On June 21, 2011, the Court directed the United States Marshal to service Defendants Thornberry and Knight the summons and complaint. (Doc. 21) The summons were returned unexecuted. (Docs. 22, 23) The Marshal reported that Defendants Thornberry and Knight were no longer employed by the CDCR and that the CDCR had no forwarding information.

On February 2, 2012, the Court ordered Plaintiff to provide additional information as to where Defendants Thornberry and Knight could be served. (Doc. 33) The Court warned Plaintiff that his failure to provide the information would result in an order dismissing the matter according to Fed. R. Civ. P. 4. Nevertheless, Plaintiff has failed to comply.

According to Fed. R. Civ. P. 4,

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 the defendant or order that service be made within a specified time. But

1 if the plaintiff shows good cause for the failure, the court must extend the time for
2 service for an appropriate period.

3 Rule 4(m) “encourages efficient litigation by minimizing the time between the commencement of an
4 action and service of process.” Electric Specialty Co. v. Road and Ranch Supply, Inc., 967 F.2d 309, 311
5 (9th Cir. 1992) (addressing former F. R. Civ. P. 4(j).)

6 This matter has been pending for more than two years. Service to Defendants Thornberry and
7 Knight has been pending since June 2011. The Court has no jurisdiction over these defendants unless
8 they are served and the Court and the US Marshal have no information about where they are located.
9 Moreover, Plaintiff’s failure to provide service information is deemed an admission that he, too, does
10 not know where service may be accomplished.

11 **ORDER**

12 Therefore, on its own motion, the Court **ORDERS**,

- 13 1. The complaint as to Defendants Thornberry and Knight is **DISMISSED WITHOUT**
14 **PREJUDICE.**

15 IT IS SO ORDERED.

16 Dated: February 24, 2012

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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