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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WILLIAM P. GARCIA,

Plaintiff,

v.

KEN CLARK, et al.,

Defendants.

CASE NO. 1:10-cv-00447-LJO-DLB PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
DEFENDANT A. SEINEZ FROM ACTION
(DOC. 68)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

Plaintiff William P. Garcia (“Plaintiff”) is a state prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”), proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 11, 2012, the United States Marshal, who must effect service of process on behalf of plaintiffs proceeding in forma pauperis, returned a summons for Defendant A. Seinez unexecuted. Doc. 68. According to the summons, Defendant A. Seinez did not live at the address provided by the Legal Affairs division of CDCR. This was the United States Marshal’s second attempt to serve process on Defendant Seinez. Where a pro se, in forma pauperis plaintiff fails to provide the Marshal with accurate and sufficient information to effect service of the summons and complaint, the Court’s sua sponte dismissal of the unserved defendants is appropriate. *Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (quoting *Puett v. Blandford*, 912 F.2d 270, 275 (9th Cir. 1990)), *abrogated in part on other grounds, Sandin v. Conner*, 515 U.S. 472 (1995).

Accordingly, it is HEREBY RECOMMENDED that Defendant A. Seinez be dismissed from this action, without prejudice, pursuant to Federal Rule of Civil Procedure 4(m).

1 These Findings and Recommendations will be submitted to the United States District
2 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen**
3 **(14) days** after being served with these Findings and Recommendations, the parties may file
4 written objections with the Court. The document should be captioned “Objections to Magistrate
5 Judge’s Findings and Recommendations.” The parties are advised that failure to file objections
6 within the specified time may waive the right to appeal the District Court’s order. *Martinez v.*
7 *Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991).

8 IT IS SO ORDERED.

9 **Dated: June 1, 2012**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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