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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN CARLSON,
Plaintiff,
v.
R. HANSEN, et al.,
Defendants.

Case No. 1:10-cv-00759-LJO-SKO PC
ORDER DISMISSING DEFENDANT
ALAVARA PURSUANT TO RULE 4(M)
(Docs. 42 and 46)

Plaintiff Thomas John Carlson, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 30, 2013. On November 5, 2012, the United States Marshal was directed to initiate service of process on nine defendants. Eight defendants waived service and filed an answer, but service was returned unexecuted as to Defendant Alavara. 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3). (Docs. 26, 42.)

Pursuant to Federal Rule of Civil Procedure 4(m),

[i]f 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 that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Based on information provided by Pleasant Valley State Prison and the Legal Affairs Division of the California Department of Corrections and Rehabilitation, no one with the last name of Alavara is or was employed. (Doc. 42.) Based on this response, the Marshal's Office

1 appears to have exhausted the avenues available to it in attempting to locate and serve Defendant
2 Alavara. *Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (internal quotations and
3 citation omitted), *abrogated on other grounds by Sandin v. Connor*, 515 U.S. 472 (1995). Plaintiff
4 was provided with an opportunity to show cause why Defendant Alavara should not be dismissed,
5 but he did not respond. Fed. R. Civ. P. 4(m); *Crowley v. Bannister*, __ F.3d __, __, No. 2013 WL
6 5813178, at *__ (9th Cir. Oct. 30, 2013). (Doc. 46.)

7 Accordingly, Defendant Alavara is HEREBY ORDERED DISMISSED, without prejudice,
8 pursuant to Rule 4(m).

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IT IS SO ORDERED.

Dated: November 5, 2013

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