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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SAMUEL KENNETH PORTER,

Plaintiff,

v.

CAPTAIN JENNINGS, et al.,

Defendants.

CASE NO. 1:10-cv-01811-AWI-DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
DEFENDANT DARLENE AUSTIN FROM
ACTION

ECF No. 116

_____ /

Plaintiff Samuel Kenneth Porter (“Plaintiff”) is a California state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On January 28, 2013, the United States Marshal returned a [summons](#) unexecuted as to Defendant Darlene Austin . ECF No. 113. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 12, 2013, the Magistrate Judge filed a [Findings and Recommendations](#) (F&R) which was served on the parties and which contained notice to the parties that any objection to the Findings and Recommendations was to be filed within fourteen days. ECF No. 116. Plaintiff filed an [Objection](#) to the F&R on March 14, 2013. ECF No. 120.

In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a *de novo* review of this case. Although the docket entry indicates that the objections are in reference to the February 12, 2013 F&R, the substance of the objections appear to relate only to a previous Findings and Recommendation. That previous Findings and Recommendation, which was adopted over Defendants’ objections, recommended denying Defendants’ motion for summary judgment.

1 See Doc. Nos. 115, 121. Plaintiff's objections in no way affect either this F&R or the previous
2 Findings and Recommendation.

3 Having carefully reviewed the entire file, the Court finds the Findings and Recommendations
4 to be supported by the record and by proper analysis.

5
6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The Findings and Recommendations, filed February 12, 2013, is adopted in full; and
8 2. Defendant Darlene Austin is dismissed from this action without prejudice for failure
9 to effect service of process pursuant to Rule 4(m) of the Federal Rules of Civil
10 Procedure.

11 IT IS SO ORDERED.

12 Dated: April 11, 2013



SENIOR DISTRICT JUDGE