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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

MARQUES BUTLER,	)	Case No.: 1:12-cv-01538-LJO-SAB (PC)
	)	
Plaintiff,	)	
	)	FINDINGS AND RECOMMENDATION
v.	)	RECOMMENDING DEFENDANT WERN BE
	)	DISMISSED FROM ACTION WITHOUT
R. WERN, et al.,	)	PREJUDICE
	)	
Defendants.	)	[ECF Nos. 28, 33, 34]
	)	
	)	

Plaintiff Marques Butler is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 24, 2015, the Court issued an order to show cause why Defendant Wern should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. As stated in the order to show cause, the Marshal forwarded the service packet to California State Prison, in Coalinga, California, which was sent to the special investigator who was unable to identify or locate Defendant R. Wern. Personal serve was attempted on November 5, 2014, and November 25, 2014, however, it was noted “new tenants” and there was no forwarding address. (ECF No. 28.)

In response to the order to show cause, Plaintiff submits that because of his incarceration he does not have access a phone directory to ascertain Defendant Wern’s address and had to rely on the United States marshal. (ECF No. 34.)

1           Where a pro se plaintiff fails to provide the Marshal with accurate and sufficient information to  
2 effect service of the summons and complaint, the Court’s sua sponte dismissal of the unserved  
3 defendants is appropriate. Walker v. Sumner, 14 F.3d 1415, 1421-1422 (9th Cir. 1994), abrogated in  
4 part on other grounds, Sandin v. Conner, 515 U.S. 472 (1995).

5           While Plaintiff is entitled to service of process by the United States marshal, it is the  
6 responsibility of Plaintiff to provide sufficient information for service as to Defendant Wern. Plaintiff  
7 has failed to do so and dismissal of Defendant Wern without prejudice is therefore warranted. Fed. R.  
8 Civ. P. 4(m); Walker v. Sumner, 14 F.3d at 1422.

9           Accordingly, it is HEREBY RECOMMENDED that Defendant Wern be dismissed without  
10 prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

11           This Findings and Recommendation will be submitted to the United States District Judge  
12 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30) days**  
13 after being served with this Findings and Recommendation, the parties may file written objections  
14 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and  
15 Recommendation.” The parties are advised that failure to file objections within the specified time may  
16 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)  
17 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18  
19 IT IS SO ORDERED.

20 Dated: June 23, 2015

  
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE