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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM M. BRYSON, JR.,

Plaintiff,

v.

SUSAN B. GERSON, et al.,

Defendants.

CASE NO. 1:13-cv-01979-LJO-MJS

**FINDINGS AND RECOMMENDATIONS
(1) FOR SERVICE OF COGNIZABLE
CLAIMS IN FIRST AMENDED COMPLAINT
AGAINST DEFENDANT EXECUTIVE
OFFICE FOR UNITED STATES
ATTORNEYS, AND (2) TO DISMISS ALL
OTHER DEFENDANTS**

(ECF No. 10)

**OBJECTIONS DUE WITHIN FOURTEEN
(14) DAYS**

Plaintiff is a federal prisoner proceeding pro se and in forma pauperis in this action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. (ECF Nos. 3 & 9.)

The Court screened Plaintiff's complaint (ECF No. 1), and dismissed it for failure to state a claim, but gave leave to amend. (ECF No. 8.) Plaintiff then filed the first amended complaint. (ECF No. 9.)

On September 19, 2014, the Court screened Plaintiff's first amended complaint, and found that it stated a cognizable FOIA claim against the Executive Office for United States Attorneys, but no cognizable claim against any other defendant. (ECF No. 11.) The Court ordered Plaintiff, within thirty days, to either file an amended complaint or

1 notify the Court of his willingness to proceed only on his FOIA claim against the
2 Executive Office for United States Attorneys. Plaintiff did not respond to the Court's
3 September 19, 2014 order and, on October 31, 2014, the Court ordered Plaintiff to show
4 cause why all defendants other than the Executive Office for United States Attorneys
5 should not be dismissed. (ECF No. 12.) The Court warned Plaintiff that failure to respond
6 to the order to show cause would result in a recommendation that the remaining
7 defendants be dismissed. Plaintiff did not respond to the order to show cause and the
8 deadline for doing so has passed.

9 As explained in the September 19, 2014 screening order (ECF No. 11), Plaintiff's
10 first amended complaint states a cognizable FOIA claim against the Executive Office for
11 United States Attorneys, but no other cognizable claim.

12 Accordingly, it is HEREBY RECOMMENDED that:

- 13 1. Plaintiff should proceed on the first amended complaint FOIA claim against
14 Defendant Executive Office for United States Attorneys;
- 15 2. All other claims asserted in the first amended complaint and all other named
16 Defendants should be dismissed with prejudice;
- 17 3. Service should be initiated on the following Defendant:
18 EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS
- 19 4. The Clerk of the Court should send Plaintiff one (1) USM-285 form, one (1)
20 summons, a Notice of Submission of Documents form, an instruction sheet,
21 and a copy of the first amended complaint, filed September 8, 2104;
- 22 5. Within thirty (30) days from the date of adoption of these Findings and
23 Recommendations, Plaintiff should complete and return to the Court the notice
24 of submission of documents along with the following documents:
 - 25 a. Completed summons;
 - 26 b. One completed USM-285 form for the Defendant listed above,
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c. Two copies of the endorsed first amended complaint filed September 8, 2014, and

6. Upon receipt of the above-described documents, the Court should direct the United States Marshal to serve the above-named Defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

The Findings and Recommendation are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with the Findings and Recommendation, the parties may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendation." A party may respond to another party's objections by filing a response within fourteen (14) days after being served with a copy of that party's objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: November 21, 2014

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE