1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 PARNELL CURTIS, Case No.: 1:14-cv-00656-AWI-SAB (PC) 12 Plaintiff, FINDINGS AND RECOMMENDATION RECOMMENDING DISMISSAL OF 13 v. **DEFENDANT CAMARIO PURSUANT TO** RULE 4(M) OF THE FEDERAL RULES OF CIVIL CALIFORNIA CORRECTIONAL 14 **PROCEDURE** INSTITUTION, et al., 15 [ECF Nos. 55, 56] 16 Defendants. 17 18 Plaintiff Parnell Curtis is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 19 1983. 20 This action is proceeding on Plaintiff's first amended complaint, filed on August 12, 2014, 21 against Defendants J.G. Garcia, R.F. Tablas, R.W. Catlin, D.M. Coontz, Camacho/Camario, Mendoza, 22 L. Escalante, and I.M. Vera for excessive force in violation of the Eighth Amendment, and against 23 Defendants J.G. Garcia and R.F. Tablas for retaliation in violation of the First Amendment. 24 After a second attempt to serve Defendant Camario, previously identified by Plaintiff as 25 Camacho, the United States marshal was not able to locate or identify Camario and service was 26 returned un-executed on September 21, 2015. 27 On September 22, 2015, the Court ordered Plaintiff to show cause within thirty days why

Defendant Camario should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil

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Procedure. (ECF No. 56.) The thirty day time frame has passed and Plaintiff has failed to respond to the order to show cause.

Accordingly, it is HEREBY RECOMMENDED that Defendant Camario be DISMISSED from the action pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

This Findings and Recommendation will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within **twenty-one** (21) **days** after being served with this 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." The parties are advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

3 IT IS SO ORDERED.

Dated: **November 19, 2015**

UNITED STATES MAGISTRATE JUDGE