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

MICHAEL THOMAS,)	Case No.: 1:19-cv-00333-LJO-SAB (PC)
)	
Plaintiff,)	
)	ORDER VACATING FINDINGS AND
v.)	RECOMMENDATIONS ISSUED ON
)	OCTOBER 1, 2019
DAVID DAVEY, et.al.,)	
)	SECOND ORDER DIRECTING SERVICE BY
Defendants.)	UNITED STATES MARSHAL ON DEFENDANT
)	MAYS
)	
)	[ECF Nos. 17, 18, 21, 23]
)	

Plaintiff Michael Thomas is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

On July 16, 2019, the Court found that service of the complaint was appropriate as to Defendants Licensed Vocational Nurse Thomas, Doctor Ulit, Doctor Mays, Doctor Doe No. 1, and CMO Doe No. 2 for deliberate indifference in violation of the Eighth Amendment, and service was ordered.

On August 13, 2019, pursuant to the E-Service pilot program for civil rights cases for the Eastern District of California, the California Department of Corrections and Rehabilitation returned a notice of intent to not waive personal service on Defendant Mays because he was no longer at Corcoran State Prison and there was no address of record. Therefore, service was forwarded to the United States Marshal.

1 On August 14, 2019, the United States Marshal (USM) returned the USM-285 form as
2 unexecuted as to Defendant Mays with a notation that the individual could not be located. (ECF No.
3 17.)

4 On August 21, 2019, the Court issued an order to show cause why Defendant Mays should not
5 be dismissed pursuant to Rule 4.

6 Plaintiff did not respond to the Court's August 21, 2019 order to show cause, and therefore
7 Defendant Mays (Nurse Practitioner) must be dismissed from this action, without prejudice.
8 Therefore, on October 1, 2019, the undersigned issued Findings and Recommendations recommending
9 that Defendant Dr. Mays be dismissed, without prejudice, pursuant to Rule 4. The Findings and
10 Recommendations were served on Plaintiff and contained notice that objections were due within
11 fourteen days. Plaintiff filed objections on October 15, 2019. (ECF No. 23.)

12 In his objections, Plaintiff submits that he was unaware of the need to file a response to the
13 order to show cause given that the Court set this case for settlement conference on October 9, 2019,
14 and Plaintiff attaches a copy of his response to the order to show cause along with additional
15 information to assist the USM in effectuating service on Defendant Mays. (ECF No. 23.) The Court
16 will forward this information to the USM who shall contact the Litigation Coordinator at California
17 State Prison-Corcoran to obtain any forwarding address in his/her possession, or which may be
18 obtainable through CDCR's personnel records, to be maintained confidentially by the USM.

19 Based on the foregoing, it is **HEREBY ORDERED** that:

- 20 1. The Findings and Recommendations issued on October 1, 2019, are **VACATED**;
- 21 2. The Clerk of Court shall forward a copy of Plaintiff's objections (ECF No. 23) to the
22 USM to assist in service on Defendant May; and

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3. Within **thirty (30)** days from the date of this order, the USM shall attempt to re-serve Defendant May as directed above, and return a copy of the USM-285 (*which shall not include any confidential information*).

IT IS SO ORDERED.

Dated: October 16, 2019


UNITED STATES MAGISTRATE JUDGE