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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 ETUATE SEKONA,

12 Plaintiff,

13 v.

14 PEREZ, et al.,

15 Defendants.
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Case No.: 1:19-cv-0400-JLT-GSA-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL
(Doc. 85.)

ORDER DENYING PLAINTIFF'S MOTION FOR
APPOINTMENT OF COUNSEL AND AN
INVESTIGATOR AND DISMISSING
DEFENDANTS R. PEREZ AND MALDONADO
(Doc. 81.)

18 The assigned magistrate judge issued findings and recommendations, recommending that the
19 Court deny Plaintiff's motion for appointment of counsel and an investigator, and dismiss Defendants
20 R. Perez and Maldonado from this action pursuant to Federal Rule of Civil Procedure 4(m). (Doc. 85.)
21 On April 28, 2023, Plaintiff filed objections to the findings and recommendations. (Doc. 89.) On May
22 8, 2023, Defendants filed a reply to Plaintiff's objections. (Doc. 91.)

23 According to 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this Court has conducted a *de*
24 *novo* review of this case. Having carefully reviewed the entire file, including Plaintiff's objections, the
25 Court finds the findings and recommendations to be supported by the record and proper analysis. In
26 particular, the magistrate judge correctly concluded that dismissal of the two un-served defendants is
27 appropriate because Plaintiff has failed to provide sufficient information that would allow the U.S.
28 Marshal to identify and locate those individuals. Service by another means, such as by publication, is

1 not appropriate under these circumstances, as substitute service is permissible only if “the summons
2 and complaint cannot with reasonable diligence be personally delivered to the person to be served.”
3 Cal. Code Civ. P. § 415.20(b); *see also Adams v. Arab*, No. 10cv0706 MMA (BLM), 2011 WL 92988,
4 at *1 (S.D. Cal. Jan. 10, 2011) (denying motion for substitute service where prisoner failed to furnish
5 information necessary to identify the defendant). Thus, the Court **ORDERS**:

- 6 1. The findings and recommendations issued on April 7, 2023 (Doc. 85) are **ADOPTED**
7 **IN FULL**.
- 8 2. Plaintiff’s motion for appointment of counsel and an investigator, filed on March 23,
9 2028, is **DENIED**.
- 10 3. Defendants R. Perez and Maldonado are **DISMISSED** from this action pursuant to Fed.
11 R. Civ. P. 4(M) based on Plaintiff’s failure to provide information sufficient for the
12 Marshal to effect service of process.
- 13 4. This case is referred to the Magistrate Judge.

14
15 IT IS SO ORDERED.

16 Dated: May 15, 2023


UNITED STATES DISTRICT JUDGE