

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GILBERT NAVARRO,  
  
                                Plaintiff,  
  
                                v.  
  
J. STCLAIR, et al.,  
  
                                Defendants.

No. 1:20-cv-00524-NONE-SKO (PC)  
  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
DEFENDANT HERNANDEZ  
  
(Doc. No. 23)

Plaintiff Gilbert Navarro is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 4, 2021, the assigned magistrate judge issued an order to show cause, within 21 days, why Defendant Hernandez should not be dismissed from this action for failure to effect service. (Doc. No. 22.) The magistrate judge noted that the California Department of Corrections and Rehabilitation (CDCR) attempted service through the Court’s e-service pilot program; however, e-service was unsuccessful because Ms. Hernandez is no longer employed with CDCR. (*Id.* at 2.) The U.S. Marshals Service then attempted personal service at Ms. Hernandez’s last known address; but that, too, was unsuccessful because she was no longer residing at that location. (*Id.*) Plaintiff failed to respond to the order to show cause within the time provided.

///

1           Accordingly, on February 8, 2021, the magistrate judge filed findings and  
2 recommendations, recommending that Defendant Hernandez be dismissed without prejudice for  
3 failure to effect service, pursuant to Federal Rule of Civil Procedure 4(m). (Doc. No. 23.) The  
4 findings and recommendations were served on plaintiff and provided him 14 days to file  
5 objections thereto. (*Id.* at 23.) Plaintiff has not filed any objections and the time do so has  
6 passed.

7           In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
8 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings  
9 and recommendations to be supported by the record and proper analysis.

10           Accordingly,

- 11           1.       The findings and recommendations issued on February 8, 2021, (Doc. No. 23), are  
12                   adopted in full;
- 13           2.       Defendant Hernandez is dismissed from this action without prejudice for failure to  
14                   effect service, pursuant to Federal Rule of Civil Procedure 4(m); and,
- 15           3.       This case is referred back to the assigned magistrate judge for further proceedings.

16           IT IS SO ORDERED.

17  
18           Dated: March 24, 2021

  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE