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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH PUCKETT,

Plaintiff,

v.

JERRY DYER, et al.,

Defendants.

Case No. 1:22-cv-00750-KES-HBK

ORDER ADOPTING AMENDED FINDINGS
AND RECOMMENDATIONS

(Doc. 26)

Plaintiff Joseph Puckett, proceeding pro se, initiated this civil action on June 21, 2022.

Doc. 1. The matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 302.

The Clerk of Court issued summonses for each defendant on August 26, 2022. Docs. 4, 5. On November 4, 2022, all the summonses were returned unexecuted. Docs. 8, 9. On November 18, 2022, the Court issued an order directing plaintiff to show cause why the Court should not dismiss this action for failure to timely serve all defendants as required by Rule 4(m) of the Federal Rules of Civil Procedure. Doc. 10 at 2. On December 13, 2022, the Court granted plaintiff an extension of time until December 30, 2022, to respond to the Order to Show Cause. Doc. 12. On January 12, 2023, the Court *sua sponte* granted plaintiff a further extension of time until February 15, 2023, to effectuate service. Doc. 14. In its order issued on January 12, 2023,

1 the Court explicitly advised plaintiff how service must be completed, emphasizing that a party
2 could not complete service. *Id.* at 1.

3 On January 30, 2023, March 16, 2023, and March 20, 2023, plaintiff filed various
4 affidavits reiterating his claims and stating he “personally” attempted to serve unspecified
5 defendants at city hall and the police department. *See generally* Docs. 15, 16, 17. On March 30,
6 2023, the Court issued an order to plaintiff advising him again that service must be completed in
7 compliance with Rule 4(c)(2) and directing him to file proof of service of summonses for each
8 defendant no later than April 21, 2023. Doc. 18 at 2. The Court further warned plaintiff that his
9 failure to file proof of service by that date would result in a dismissal of defendants under Federal
10 Rule of Civil Procedure 4(m) and dismissal of this action without prejudice. *Id.* On April 25,
11 2023, the Court granted plaintiff one final extension of time in which to comply with Rule 4(m).
12 Doc. 20. On May 30, 2023, plaintiff filed proofs of service purporting to reflect personal service
13 of defendants. Doc. 21. Upon review of the proofs of service, the magistrate judge found them
14 defective as not effectuating service on the parties in this case. Doc. 26. The assigned magistrate
15 judge issued findings and recommendations on November 13, 2023 to dismiss this case for
16 plaintiff’s failure to serve defendants under Rule 4(m). *Id.* In the findings and recommendations,
17 the Court advised plaintiff that any objections were to be filed within 14 days of service of the
18 Court’s order. *Id.* at 4-5.

19 On April 22, 2024, more than five months since the findings and recommendations were
20 issued, plaintiff filed a Motion for Extension of Time to respond to the findings and
21 recommendations, which was denied as untimely. Doc. 29. Plaintiff thereafter filed a motion for
22 an entry of default, Doc. 32, which was denied and stricken as no defendants had been properly
23 served, Doc. 33.

24 On November 15, 2024, nineteen summons were returned, of which five purported to be
25 executed. Docs. 34–52. A review of the five summonses that purport to be “executed” reveals
26 that they were all served only by inadequate substitute service, and that one of the summonses
27 was for an individual who is not a party to the case. *See* docket; Docs. 38–41, 45. Plaintiff did
28 not request and was not granted additional time to serve defendants. *See* docket. These filings do

1 not establish that plaintiff has ever properly served any defendant, and the failure to do so timely
2 warrants the dismissal of plaintiff's case.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has conducted a de
4 novo review of this case. Having carefully reviewed the file, the Court finds the findings and
5 recommendations are supported by the record and proper analysis.

6 ACCORDINGLY, it is ORDERED:

- 7 1. The findings and recommendations issued November 13, 2023, Doc. 26, are adopted
8 in full;
9 2. Plaintiff's Complaint is DISMISSED without prejudice; and
10 3. The Clerk of Court is directed to close this case.

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IT IS SO ORDERED.

Dated: November 25, 2024


UNITED STATES DISTRICT JUDGE