

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

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ERIC CHARLES RODNEY KNAPP, No. CIV S-05-2520-FCD-CMK-P

Plaintiff,

vs.

ORDER

RODERICK HICKMAN, et al.,

Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On October 13, 2009, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. Timely objections to the findings and recommendations have been filed.

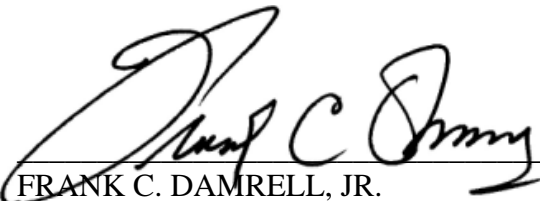
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and

1 by proper analysis. Plaintiff objects to the dismissal of defendant Warvarovski due to the United
2 States Marshal's failure to effect service. He argues that the Marshal should have personally
3 served defendant Warvarovski when the waiver of service was not timely returned, and that he
4 provided sufficient information for the US Marshal to do so. However, the service information
5 Plaintiff provided was a Post Office Box in Sutter Creek, California. As the Marshal has
6 indicated, personal service is not possible on a Post Office Box. It is Plaintiff's obligation to
7 provide an address sufficient for service, which he has not done. See Walker v. Sumner, 14 F.3d
8 1415, 1422 (9th Cir. 1994) *overruled on other grounds by Sandin v. Conner*, 515 U.S. 472
9 (1995).

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The findings and recommendations filed October 13, 2009, are adopted in
12 full;
- 13 2. The August 19, 2009 order to show cause is discharged;
- 14 3. Defendants Gunning, Marshall, Murray and Warvarovski are dismissed as
15 defendants to this action for failure to effect timely service;
- 16 4. Claims 1g and 8f are dismissed as failing to name any defendant
17 remaining in this action; and
- 18 5. This action shall proceed against the remaining defendants, as identified in
19 the court's September 17, 2009, order.

20 DATED: December 8, 2009.

21
22
23 
FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE
24
25
26