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

BRADY K. ARMSTRONG,

Plaintiff,

No. CIV S-08-0039 FCD KJM P

vs.

SILVEA GARCIA, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_/

Plaintiff is a prisoner who is proceeding pro se and in forma pauperis. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. On January 28, 2010, the court ordered the United States Marshal to serve plaintiff's complaint on defendant Gellette. Process directed to defendant Gellette was returned unserved because defendant Gellette is no longer employed at the address provided by plaintiff. This is the second time process directed to Gellette has been returned unserved because plaintiff failed to provide an address where he can be served. Because it does not appear that plaintiff can provide the United States Marshal with the information necessary for the Marshal to serve defendant Gellette with process, the court will recommend that defendant Gellete be dismissed.

Accordingly, IT IS HEREBY RECOMMENDED that defendant Gellette be dismissed without prejudice.

1           These findings and recommendations are submitted to the United States District  
2 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-  
3 one days after being served with these findings and recommendations, any party may file written  
4 objections with the court and serve a copy on all parties. Such a document should be captioned  
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that  
6 failure to file objections within the specified time may waive the right to appeal the District  
7 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

8 DATED: April 26, 2010.

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10 U.S. MAGISTRATE JUDGE

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