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

LEROY BENJAMIN,
Plaintiff,

No. CIV S-08-0995-WBS-CMK-P

vs.

FINDINGS AND RECOMMENDATIONS

CAROLYN A. LAWSON,
Defendant.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against defendant Lawson only. Plaintiff has been directed on numerous occasions to provide the court with information necessary for service of process by the United States Marshall. To date, plaintiff has not done so. Pursuant to Federal Rule of Civil Procedure 4(m) service of process must be accomplished within 120 days after the date the complaint is filed. The court has, in this case, extended this deadline several times. It does not appear, however, that further extensions will allow plaintiff to comply and prosecute this action. Therefore, dismissal of the action without prejudice is appropriate. See Fed. R. Civ. P. 4(m).

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1 Based on the foregoing, the undersigned recommends that this action be dismissed
2 without prejudice for failure to effect timely service of process.

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 20 days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court. The document should be captioned "Objections to Magistrate Judge's
7 Findings and Recommendations." Failure to file objections within the specified time may waive
8 the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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11 DATED: October 21, 2009

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13 **CRAIG M. KELLISON**
14 UNITED STATES MAGISTRATE JUDGE
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