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

MARK ANTHONY MORENO,

Plaintiff,

No. CIV S-08-1344 JAM EFB P

vs.

ERVIN, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

On January 28, 2009, the court ordered the United States Marshal to serve the complaint on defendants. On March 31, 2009, process directed to defendant Waterman was returned unserved with the notations that there was no record of employment for that person at the institution plaintiff designated for service, and that the Department of Corrections and Rehabilitation was unable independently to locate the defendant in their personnel database. On April 29, 2009, the court directed plaintiff to provide additional information to serve defendant Waterman within 90 days. That period has passed and plaintiff has not returned the USM-285 forms necessary to effect service on defendant Waterman. Neither has he otherwise responded to the court's order.

Accordingly, it is hereby RECOMMENDED that defendant Waterman be dismissed without prejudice.

