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

MALIK JONES,

Plaintiff,

No. CIV S-09-0619 GEB EFB P

vs.

D. SWINGLE, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a prisoner proceeding *in forma pauperis* and without counsel in a civil rights action pursuant to 42 U.S.C. § 1983. On June 25, 2010, process was returned unexecuted because defendant Reglie could not be located. On July 16, 2010, the court directed plaintiff to provide new instructions for service of process upon defendant Reglie. Plaintiff has not provided new instructions for service of process upon defendant Reglie or otherwise responded to the court's order. The court has given plaintiff two opportunities to locate defendant Reglie and warned plaintiff that failure to provide new instructions or to show good cause for such failure would result in a recommendation that this action be dismissed as to that defendant. *See* Fed. R. Civ. P. 4(m) (Service of process must be effected within 120 days of the filing of the complaint unless plaintiff demonstrates good cause).

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1 Accordingly, it is hereby RECOMMENDED that defendant Reglie be dismissed without
2 prejudice.

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
8 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 DATED: October 27, 2010.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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