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

GARY R. XAVIER,

Plaintiff,

No. 2:09-cv-0783 LKK CKD P

vs.

M. FRENCH, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

_____ /

By order filed November 8, 2012, plaintiff was ordered to show cause, within thirty days, why his claims against defendants French and Holland should not be dismissed for failure to execute service. (Dkt. No. 41.) The thirty day period has now expired, and plaintiff has not shown cause or otherwise responded to the court’s order. As no other defendants remain in this action (see Dkt. No. 29), the court will recommend that this action be dismissed in its entirety.

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, plaintiff may file written

1 objections with the court. The document should be captioned "Objections to Magistrate Judge's
2 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
3 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
4 F.2d 1153 (9th Cir. 1991).

5 Dated: December 18, 2012

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7 _____
8 CAROLYN K. DELANEY
9 UNITED STATES MAGISTRATE JUDGE

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