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

MICHAEL DEVELDER,

Plaintiff,

No. CIV S-09-1803 EFB P

vs.

J. HIRSHLER, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).


On August 10, 2010, the court screened plaintiff’s April 12, 2010 amended complaint, and found that service was appropriate for defendants Hirshler and Housley (“defendants”). Dckt. Nos. 9, 10. On September 10, 2010, the court ordered service of the amended complaint on the defendants. Dckt. No. 12. Pursuant to Federal Rule of Civil Procedure (“Rule”) 4(m), service of process must be effected within 120 days of the filing of the complaint unless plaintiff demonstrates good cause. On October 6, 2010, the United States Marshal returned service of process directed to defendant Housley unserved, with a notation that Housley is not employed at

1 Mule Creek State Prison and his name cannot be found in the CDC locator database.  
2 Accordingly, on October 18, 2010, the court gave plaintiff sixty days to provide new information  
3 about where defendant Housley may be served and after giving plaintiff an admonition regarding  
4 Rule 4(m), informed plaintiff that failure to provide further information to allow service on  
5 defendant Housley would result in the case being dismissed as to that defendant.

6 The sixty-day period has now expired and plaintiff has not provided further information  
7 on where defendant Housley may be served with process and has not otherwise responded to the  
8 court's order.

9 Accordingly, it is hereby ORDERED that plaintiff's claims against defendant Housley  
10 are dismissed without prejudice. This action now proceeds on plaintiff's claims against  
11 defendant Hirshler only.

12 DATED: January 21, 2011.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

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