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

GREGORY NORWOOD,

Plaintiff,

No. CIV S-09-2929 LKK GGH P

vs.

NANGANAMA, et al.,

Defendants.

ORDER &
FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a prisoner who is proceeding pro se and in forma pauperis. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. On November, 17, 2009, the undersigned deemed service appropriate for defendants Nanganama, Ramen, Byers, Salmi and Kaur.

Defendants Nanganama and Raman were served and their motion to dismiss was granted on January 11, 2011, in that Nanganama was dismissed from this action, but plaintiff would be allowed to file an amended complaint with respect to defendant Ramen. The undersigned stated that plaintiff should file an amended complaint once service problems with the remaining defendants had been resolved.

With respect to the three remaining defendants, Byers, Salmi and Kaur, service was not effectuated, as the waiver of service was returned unexecuted, on February 10, 2010. Doc. 15. Salmi and Byers were not employed at the facility plaintiff indicated and could not be

1 located in the CDCR database. Kaur was not located at the facility plaintiff indicated and the
2 CDCR database listed too many entries with that name.

3 On May 19, 2010, the undersigned sent plaintiff new forms with respect for
4 service on Byers, Salmi and Kaur and to return the forms to the court within 60 days with
5 additional information on how to serve these defendants. On July 21, 2010, plaintiff requested
6 an extension of time to return the forms to the court as he was still attempting to ascertain the
7 addresses for these defendants. Plaintiff's request was granted Doc. 33. On August 5, 2010,
8 plaintiff requested court intervention to obtain the relevant information regarding information
9 needed to serve defendants. On September 21, 2010, the undersigned granted plaintiff's request,
10 and on October 15, 2010, last known business addresses were provided to plaintiff regarding
11 defendants Byers, Salmi and Kaur.

12 On October 21, 2010, new forms were provided to plaintiff to be completed and
13 returned to the court for service on defendants Byers, Salmi and Kaur and on November 1, 2010,
14 the undersigned ordered service of these defendants. Byers was served and answered the
15 complaint on February 7, 2011. However, Kaur could not be located (Doc. 50) nor could Salmi
16 (Doc. 52).

17 Pursuant to Federal Rule of Civil Procedure 4(m), if a defendant is not served
18 within 120 days of filing the complaint, the court may dismiss the complaint without prejudice as
19 to that defendant. Based on this history discussed above and that several service attempts have
20 been made over the last 18 months, it is pointless to continue to attempt to serve Kaur and Salmi.
21 Plaintiff has been afforded every opportunity to obtain information regarding these defendants,
22 but all attempts at service have proved unsuccessful and it is time for this litigation to continue.

23 As stated above, plaintiff's claims against defendant Ramen were dismissed with
24 leave to amend. Doc. 45. Within twenty-eight days of service of this order, plaintiff may file an
25 amended complaint as discussed in the November 18, 2010, order and findings and
26 recommendations. Failure to file an amended complaint will result in a recommendation that

