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

JOHN CLINT DRAPER,

Plaintiff,

No. CIV S-10-0032 KJM EFB P

vs.

D. ROSARIO, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On October 15, 2010, the court found that plaintiff's complaint stated a cognizable claim as to defendants Rosario, Flowers, Roger and Rallos. The order found that plaintiff had failed to state a cognizable claim as to the remaining defendants and dismissed them with leave to amend. Plaintiff was directed to submit the documents to effect service of the complaint on Rosario, Flowers, Roger and Rallos or an amended complaint within thirty days. Plaintiff failed to comply.

Accordingly, on January 4, 2011, the court gave plaintiff one final opportunity to submit either the documents to effect service of process on defendants Rosario, Flowers, Roger and Rallos or to file an amended complaint. The court's January 4, 2011 order warned plaintiff that failure to comply would result in a recommendation that this action be dismissed for failure to

1 prosecute.

2 Plaintiff has not submitted the materials necessary for service on the above-listed
3 defendants, has not file an amended complaint, or otherwise responded to the court's order.

4 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for failure
5 to prosecute. *See* Fed. R. Civ. P. 41(b).

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

13 DATED: March 15, 2011.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
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