

1 The magistrate judge recommended that defendant Vertinelli be dismissed
2 because he could not be served. In his objections, plaintiff alleges that although this defendant
3 wore a name tag stating that his name was "Sergeant Vertinelli," his true name is Sergeant
4 Martinez. Plaintiff states that he recently discovered this information.

5 Plaintiff must file an amended complaint accompanied by a motion for leave to
6 file an amended complaint if he wishes to correct the name of defendant Vertinelli. In the
7 motion to amend, plaintiff must address why he only recently discovered the true name of this
8 defendant.


9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
10 304, this Court has conducted a de novo review of this case. Having carefully reviewed the
11 entire file, the Court finds the findings and recommendations to be supported by the record and
12 by proper analysis.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. The findings and recommendations filed July 8, 2011 (ECF No. 66), are
15 ADOPTED in full; and

16 2. Defendant Vertinelli is DISMISSED.

17 Dated: September 19, 2011

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20 MORRISON C. ENGLAND, JR.
21 UNITED STATES DISTRICT JUDGE
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