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

MORRIS MESTER,

Plaintiff,

No. CIV S-10-2105 LKK EFB P

vs.

KELSO, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a prisoner without counsel suing for alleged civil rights violations. *See* 42 U.S.C. § 1983. By order filed November 9, 2010, the court found that service was appropriate for defendants Clark, Rahman, Swingle and French and informed plaintiff he could proceed against those defendants only or file an amended complaint that also states a claim against defendants Kelso and Lankford. The court also informed plaintiff that the court would consider his decision to proceed only as to defendants Clark, Rahman, Swingle and French as consent to the dismissal of Kelso and Lankford. On November 29, 2010, plaintiff returned documents for service against defendants Clark, Rahman, Swingle and French and consented to the dismissal of defendants Kelso and Lankford.

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1 Accordingly, IT IS HEREBY RECOMMENDED that defendants Kelso and Lankford be
2 dismissed without prejudice.

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

10 Dated: December 8, 2010.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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