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

KEITH BRIDGEWATER,

Plaintiff,

No. 2:10-cv-2971 GEB DAD P

vs.

MATTHEW CATE, et al.,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis, seeking relief pursuant to 42 U.S.C. § 1983. For the reasons discussed herein, the court recommends that defendant Hazlewood be dismissed from this action without prejudice.

By way of background, on July 26, 2012, the undersigned screened plaintiff's amended complaint, finding that it appeared to state a cognizable claim for relief against defendants Hazlewood, Hickman, Turner, and Virga and instructed plaintiff to complete and return the documents necessary to effect service on those defendants. Plaintiff did so, and on August 27, 2012, the undersigned directed the United States Marshal to serve the defendants with plaintiff's amended complaint. Defendants Turner and Virga waived service and filed a motion to dismiss. However, the United States Marshal was unable to effect service on defendant Hazlewood because the defendant is no longer employed at CSP-Sacramento, and although the

1 service documents had been forwarded, the forwarded mail had been stamped “return to sender.”
2 The United State Marshal had not completed service on defendant Hickman.

3 On January 31, 2013, in the interest of judicial economy, the court directed
4 counsel for defendants to inform the court whether counsel was willing to accept service of
5 process on behalf of defendants Hazlewood and/or defendant Hickman. Defense counsel
6 informed the court that she would accept service for former Secretary of the California
7 Department of Corrections and Rehabilitation R. Hickman but could not accept service for
8 defendant Hazlewood because she had not been able to locate him. On March 29, 2013, the
9 court advised plaintiff that the court would dismiss defendant Hazlewood if plaintiff could not
10 provide additional information to the court that would allow the United States Marshal to serve
11 this defendant. Plaintiff has since filed a motion seeking further judicial intervention and
12 submitted a new USM-285 form with information for service of process with respect to
13 defendant Hickman but not defendant Hazlewood.

14 At this point, the court finds that plaintiff cannot show good cause for the failure
15 to effect service on defendant Hazlewood. Although plaintiff has had nearly a year to provide the
16 court with the information necessary to enable the United States Marshal to serve defendant
17 Hazlewood, he has failed to provide the court with a current address for this defendant.
18 Moreover, the court has already intervened on plaintiff’s behalf and sought the necessary
19 information for service on defendant Hazlewood from defense counsel to no avail. The motion
20 to dismiss filed on behalf of defendants Turner, Virga and Hickman¹ has been pending before the
21 court since December 4, 2012. Plaintiff will be directed to file an opposition to that motion to
22 dismiss within thirty days, and the case will proceed on plaintiff’s amended complaint and the
23 claims set forth therein against these defendants.

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26 ¹ Defendant Hickman has requested to join defendant Turner and Virga’s motion to
dismiss. Good cause appearing, the court will grant defendant’s request.

