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

JAMAAL THOMAS,

Plaintiff,

No. 2:11-cv-1138 MCE EFB P

vs.

ANTIPOV, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a prisoner proceeding *in forma pauperis* and without counsel in a civil rights action pursuant to 42 U.S.C. § 1983. The U.S. Marshal was unable to serve defendant “Dr. John Ma” with process was because defendant Ma could not be located based on the information provided by plaintiff. *See* Dckt. No. 55. On October 17, 2012, the court directed plaintiff to provide new instructions for service of process. On February 12, 2013, plaintiff informed the court that he had obtained new information about where defendant Ma could be served with process. *See* Dckt. No. 64. However, plaintiff has not actually provided new information. Rather, plaintiff requests that the U.S. Marshal attempt service using the same inadequate information that was relied upon in the initial attempt to serve defendant Ma. *See* Dckt. Nos. 55, 64 at 4, ¶ 3. The court will not direct the U.S. Marshal to attempt serving defendant Ma based on the same, insufficient instructions. Plaintiff has had ample time to locate defendant Ma for

1 service, and has been warned that failure to provide new instructions or to show good cause for  
2 such failure would result in a recommendation that this action be dismissed as to defendant Ma.  
3 See Fed. R. Civ. P. 4(m) (service of process must be effected within 120 days of the filing of the  
4 complaint unless plaintiff demonstrates good cause).

5 Accordingly, it is hereby RECOMMENDED that defendant Ma be dismissed without  
6 prejudice.

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

14 DATED: February 26, 2013.

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16 EDMUND F. BRENNAN  
17 UNITED STATES MAGISTRATE JUDGE  
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