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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BOB SAVAGE,

 Plaintiff,

 v.

K. DICKINSON, et al.,

 Defendants.

No. 2:11-cv-1652-MCE-EFB P

FINDINGS AND RECOMMENDATIONS


Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On March 7, 2014, the United States Marshal returned service unexecuted as to defendant Andreason on the grounds that the defendant is deceased. ECF No. 34. No party has filed a formal suggestion of death in accordance with Rule 25 of the Federal Rules of Civil Procedure, which establishes the procedure to be followed if a party dies during the pendency of an action. *See Fed. R. Civ. P. 25; Barlow v. Ground*, 39 F.3d 231, 233 (9th Cir. 1994).

Accordingly, IT IS HEREBY RECOMMENDED that defendant Andreason be dismissed from this action. *See Fed. R. Civ. P. 25(a)(1)* (if motion for substitution “is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed”).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

1 after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
4 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
5 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

6 DATED: June 6, 2014.

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9 EDMUND F. BRENNAN
10 UNITED STATES MAGISTRATE JUDGE
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