



1 The court has repeatedly warned plaintiff that it is his responsibility to arrange for service  
2 of process and that failure to do so may result in dismissal. ECF No. 12 (“Plaintiff is cautioned  
3 that failure to accomplish service within the time prescribed by Rule 4(m) may result in a this  
4 action being dismissed for failure to follow court orders, for failure to effect service of process,  
5 and/or for lack of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure.”); *see*  
6 *also* ECF Nos. 16, 18, and 25.

7 The fact that plaintiff is incarcerated does not excuse him from properly serving  
8 defendants in a timely manner. *See Collins v. Pitchess*, 641 F.2d 740, 742 (9th Cir. 1981)  
9 (incarceration does not absolve a plaintiff of the responsibility to prosecute his actions diligently).  
10 Furthermore, plaintiff has had ample time to retain a process server and effect service and has  
11 failed to do so.

12 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without  
13 prejudice. *See* Fed. R. Civ. P. 4(m), 41(b); E.D. Cal. Local Rule 110.

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

21 Dated: August 24, 2016.

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23 EDMUND F. BRENNAN  
24 UNITED STATES MAGISTRATE JUDGE  
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