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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIO DINERO SESSOMS,  
  
Plaintiff,  
  
v.  
  
JOHN PATRICK KELLER, et al.,  
  
Defendants.

No. 2:16-cv-1943-EFB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a former state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On May 10, 2018, the court informed him that for the second time that the United States Marshal had been unable to serve defendant Venegas, Jr. using the information provided by plaintiff. ECF No. 38. The court instructed plaintiff to provide new information for service of process within 30 days and warned him that failure to do so or show cause for such failure would result in a recommendation that defendant Venegas, Jr. be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedures. *Id.*; *see also* Fed. R. Civ. P. 4(m) (service of process must be effected within 90 days of the filing of the complaint unless plaintiff demonstrates good cause). The time for acting has passed and plaintiff has not responded to the court’s order.

Plaintiff has had three opportunities to submit information about where defendant Venegas, Jr. can be served, and has been warned that Rule 4(m) requires that service of process be effected within 90 days of the filing of the complaint absent a showing of good cause. The

1 time for serving defendant Venegas, Jr. has expired and plaintiff has failed to demonstrate the  
2 requisite good cause to avoid dismissal under Rule 4(m).

3 Accordingly, it is hereby ORDERED that the Clerk is directed to randomly assign a  
4 United States District Judge to this case.

5 Further, it is RECOMMENDED that defendant Venegas, Jr. be dismissed. *See* Fed. R. Civ.  
6 P. 4(m).

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: July 19, 2018.

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16 EDMUND F. BRENNAN  
17 UNITED STATES MAGISTRATE JUDGE  
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