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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-WBS-EFB P

ORDER

Plaintiff is a former state prisoner proceeding through counsel in an action brought under 42 U.S.C. § 1983. Three times now, the United States Marshal has returned process directed to defendant Venegas, Jr., stating that the defendant cannot be located using the address provided by plaintiff. ECF Nos. 18, 33, 62. On January 31, 2019, 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. ECF No. 68; *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 four 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 time for

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

3 Accordingly, it is hereby RECOMMENDED that defendant Venegas, Jr. dismissed. *See*
4 Fed. R. Civ. P. 4(m).

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

12 DATED: April 9, 2019.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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