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7	UNITED STATES DISTRICT COURT	
8	WESTERN DISTRICT OF WASHINGTON AT TACOMA	
9	RICARDO LEE AGUILAR	
10		Case No. C09-5532RBL/JRC
11	Plaintiff,	REPORT AND
12	v.	RECOMMENDATION
13	CORRECTIONAL OFFICER ERIC ROBERTSON, et al.,	NOTED FOR:
14	Defendants.	January 15, 2010
15	Defendants.	
16		
17 18	This Civil Rights Action filed pursuant to 42 U.S.C. § 1983 has been referred to the	
10	undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and	
20	Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiff's motion for	
20	default (Dkt. # 9). The court has considered the file and no defendant is in default. Therefore,	
22	the motion should be DENIED.	
23	The court ordered the Marshal's Service to attempt service by mail in this action on	
24	September 21, 2009 (Dkt. # 4). The Marshal's Service did not mail the service packet to	
25	defendant Waddington until November 10, 2009 (Dkt. # 7). Defendant Waddington timely	
26	returned a waiver of service which was dated November 27, 2009.	
	returned a warver of service which was dated No	veindel 27, 2007.

REPORT AND RECOMMENDATION-1

The defendant has sixty days from November 10, 2009, or until January 12, 2010 to file an answer or motion regarding this case. As the only defendant to acknowledge service to date is not in default the motion should be DENIED.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen days (14) days from service of this Report and Recommendation to file written objections. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. <u>Thomas v. Arn</u>, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on January 15, 2010, as noted in the caption.

Dated this 14th day of December, 2009.

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J. Richard Creatura United States Magistrate Judge