

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 1 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AMERY GASPARD; YVONNE
HRINDICH,

Plaintiffs-Appellants,

v.

DEA TASK FORCE, a joint powers police
force; et al.,

Defendants-Appellees.

No. 16-56589

D.C. No. 5:15-cv-01802-BRO-KES
Central District of California,
Riverside

ORDER

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

Appellants' petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 38) are denied.

No further filings will be entertained in this closed case.

NOT FOR PUBLICATION

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MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Beverly Reid O'Connell, District Judge, Presiding

Submitted September 26, 2017**

Before: SILVERMAN, TALLMAN, and N.R. SMITH, Circuit Judges.

Amery Gaspard and Yvonne Hrindich appeal pro se from the district court's judgment dismissing their 42 U.S.C. § 1983 action alleging federal claims arising from two searches of their home. We have jurisdiction under 28 U.S.C. § 1291.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We review for an abuse of discretion a dismissal for failure to service in a timely manner. *See Walker v. Sumner*, 14 F.3d 1415, 1422 (9th Cir. 1994) (dismissal for failure to serve timely under Fed. R. Civ. P. 4(m), *overruled on other grounds by Sandin v. Conner*, 515 U.S. 472, 483-84 (1995)). We affirm.

The district court did not abuse its discretion by dismissing plaintiffs' claims against individual defendants because plaintiffs failed to serve the summons and complaint in a proper manner or to show good cause for this failure. *See* Fed. R. Civ. P. 4(m) (requiring service within 90 days after the complaint is filed); *In re Sheehan*, 253 F.3d 507, 512-13 (9th Cir. 2001) (discussing good cause and district court's broad discretion to extend time for service or to dismiss the action without prejudice).

The district court did not abuse its discretion in awarding partial attorney's fees to the County of Riverside under 42 U.S.C. § 1988 on the basis of its determination that plaintiffs' claims against the County were "unreasonable, frivolous, meritless, or vexatious." *Franceschi v. Schwartz*, 57 F.3d 828, 832 (9th Cir. 1995) (citation and quotation marks omitted); *see also Thomas v. City of Tacoma*, 410 F.3d 644, 647 (9th Cir. 2005) (setting forth standard of review).

We reject as without merit plaintiffs' contention that the district court improperly struck their Americans with Disabilities Act claim against the County of San Bernardino arising out of Gaspard's detention at the West Valley Detention

Center. *See* Fed. R. Civ. P. 15(a)(2) (other than amending “as a matter of course,” a plaintiff may amend his or her complaint “only with the opposing party’s written consent or the court’s leave”).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Plaintiffs’ motions for leave to file a late reply brief (Docket Entry Nos. 28, 33) are granted. The Clerk shall file the reply brief submitted at Docket Entry No. 32.

AFFIRMED.

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 AMERY GASPARD, et al.,
12 Plaintiffs,
13 vs.
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15 DEA TASK FORCE, et al.,
16 Defendants.
17

Case No. EDCV 15-01802-BRO
(KES)

ORDER ACCEPTING FINDINGS
AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE

18
19 Pursuant to 28 U.S.C. § 636, the Court has reviewed the pleadings and
20 records on file herein, the original Report and Recommendation, and the
21 Amended Report and Recommendation [Final] of the United States
22 Magistrate Judge. Further, the Court has engaged in a de novo review of those
23 portions of the original Report and Recommendation to which objections have
24 been made. The Court accepts the findings and recommendations of the
25 Magistrate Judge.

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1 IT THEREFORE IS ORDERED that all claims against (i) the
2 Individual SBPD Defendants,¹ (ii) Chuck Rosenberg, and (iii) Ernest Lee
3 Cartwright are dismissed without prejudice for lack of prosecution.
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7 **IT IS HEREBY ORDERED**

8 Dated: September 22, 2016



HONORABLE BEVERLY REID O'CONNELL
UNITED STATES DISTRICT COURT JUDGE

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26 ¹ The eleven Individual SBPD Defendants are Officers (1) Karmann,
27 (2) Thornburg, (3) Schuelke, (4) Bennett, (5) Vega, (6) Vazquez, (7) Campos,
28 (8) Luna, (9) Koalou, (10) Madrigal, and (11) Valdivia.

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 AMERY GASPARD, et al.,
12 Plaintiffs,
13 v.
14 DEA TASK FORCE, et al.,
15 Defendants.
16

} Case No. EDCV 15-01802-BRO (KES)
}
} Amended Report and Recommendation
} of United States Magistrate Judge
} [FINAL]
}

17
18 This Report and Recommendation is submitted to the Honorable Beverly
19 Reid O'Connell, United States District Judge, pursuant to 28 U.S.C. § 636 and
20 General Order 05-07 of the United States District Court for the Central District
21 of California.

22 I.

23 BACKGROUND

24 On September 3, 2015, pro se Plaintiffs Amery Gaspard and his
25 fiancée/caretaker Yvonne Hrindich filed a civil rights lawsuit against the "DEA
26 Task Force" and ten named individuals and governmental entities identified as
27 members of that task force. (Dkt. 1 ["Complaint"].) Plaintiffs subsequently filed
28 a first amended complaint ("FAC") on November 3, 2015. (Dkt. 23.) The FAC

1 names nine new individual Defendants, each of whom is a law enforcement
2 officer. (FAC ¶¶ 12-20.)

3 In response to the FAC, Defendant County of Riverside moved for
4 summary judgment. (Dkt. 26.) As evidence in support of that motion, the
5 County filed two City of San Bernardino Police Department Arrest Reports
6 from March 22, 2013 (Dkt. 26-4) and October 1, 2013 (Dkt. 26-5). In those
7 reports, all eleven of the individual police officer Defendants who have not yet
8 appeared in this action are identified as officers of the City of San Bernardino
9 Police Department (the "Individual SBPD Defendants").

10 The Court dismissed several of the Defendants named in the FAC with
11 prejudice, but permitted Plaintiffs to file a second amended complaint ("SAC")
12 against others. (Dkt. 66 ["Dismissal Order"].) On May 9, 2016, Plaintiffs filed
13 their SAC naming (1) the Individual SBPD Defendants, (2) the DEA Task
14 Force, (3) Chuck Rosenberg, the DEA's administrator, (4) the City and County
15 of San Bernardino, and (5) Ernest Lee Cartwright, the alleged "snitch" whose
16 tips caused the DEA Task Force to search Plaintiffs' home for drugs. (Dkt. 67.)

17 On May 17, 2016, the Court entered a minute order advising Plaintiffs
18 that the Dismissal Order had dismissed all claims against the DEA Task Force
19 and County of San Bernardino with prejudice, such that naming them in the
20 SAC exceeded Plaintiffs' leave to amend. (Dkt. 68.) The Court deemed the
21 DEA Task Force and County of San Bernardino stricken from the SAC. (*Id.*)
22 This left as of May 17, 2016 the following Defendants: (1) the Individual SBPD
23 Defendants,¹ (2) Chuck Rosenberg, (3) the City of San Bernardino, and
24 (4) Ernest Lee Cartwright.

25
26 ¹ The eleven Individual SBPD Defendants are Officers (1) Karmann,
27 (2) Thornburg, (3) Schuelke, (4) Bennett, (5) Vega, (6) Vazquez, (7) Campos,
28 (8) Luna, (9) Koalou, (10) Madrigal, and (11) Valdivia.

1 Of these, only the City of San Bernardino has appeared in this action. On
2 September 28, 2015, the City filed a notice of automatic bankruptcy stay. (Dkt.
3 19.) Plaintiff has failed to serve the SAC on any of the other remaining
4 Defendants, causing this Court to recommend that the claims against them be
5 dismissed for lack of prosecution.

6 II.

7 HISTORY OF SERVICE EFFORTS

8 A. The Individual SBPD Defendants

9 In December 2015, Plaintiff filed Proof of Service ("POS") declarations
10 purporting to show service on the Individual SBPD Defendants. (Dkt. 32-42.)
11 These POS declarations were defective, however, because they failed to identify
12 the person served; they merely stated that the summons was served on an
13 unnamed "Internal Affairs Seargent [sic]" at the SBPD. (Dkt. 32-41.) They also
14 claimed the date of service was "10, 12, 2015," presumably a reference to
15 October 12, 2015, a date before the FAC was even filed. (*Id.*) None of the
16 Individual SBPD Defendants responded, and Plaintiffs did not seek their
17 defaults.

18 In March 2016, the Court issued two minute orders directing Plaintiffs to
19 show cause why the unserved Defendants should not be dismissed if not served
20 with the FAC before March 31, 2016. (Dkt. 45, 46.) The Court explained the
21 requirements for effective substituted service and the 90-day deadline. (*Id.*)

22 On March 30, 2016, Plaintiffs filed another round of POS declarations
23 (Dkt. 48-56, 58-59), along with a declaration by process server, Marshall Toole
24 (Dkt. 60). All but one of these POS declarations still claimed that the date of
25 service was "10/12/15," but this time they named the person at the SBPD who
26 was served as "Jennifer Kohrell." (Dkt. 48-56, 58.) The POS declaration for
27 Defendant Valdivia purported to serve someone named "Libby" at the Redlands
28 Police Department on January 6, 2016. (Dkt. 59.) Again, none of these

1 Defendants appeared, and Plaintiffs did not seek any defaults.

2 The Dismissal Order was entered on May 4, 2016. It specifically advised
3 Plaintiffs that they “may serve the Second Amended Complaint on all
4 Defendants who have appeared by serving their counsel of record. Plaintiffs
5 must serve any Defendants who have not yet appeared in a manner that satisfies
6 Federal Rule of Civil Procedure 4 and then file a proof of service declaration.”
7 (Dkt. 66 at 3 n.1.)

8 The Magistrate Judge followed up this instruction with a minute order
9 directing Plaintiffs to effect service of the SAC on the previously named
10 Defendants or before June 24, 2016, and of new Defendant Cartwright within
11 90 days. (Dkt. 68.) The order warned, “Given the prior warnings Plaintiffs
12 received about the need to serve all then-existing defendants (see Dkt. 45, 46),
13 the Magistrate Judge will recommend the dismissal of all claims against any
14 defendant (other than Mr. Cartwright) who has not been properly served, as
15 shown by a filed proof of service declaration, on or before June 24, 2016.” (*Id.*)

16 On May 20, 2016, Plaintiffs filed another round of POS declarations.
17 (Dkt. 69-79.) On May 24, 2016, the Magistrate Judge issued a minute order
18 explaining why these declarations were defective. (Dkt. 81.) The Magistrate
19 Judge noted the following defects and discrepancies:

20 Here, as to Defendants Officers Karman, Thornburg,
21 Schuelke, Bennett, Vega, Vazquez, Campos, Luna, Koalou, and
22 Madrigal, the purported date of service is October 12, 2015. It is
23 impossible, however, that these officers could have been served with
24 the SAC back in 2015, because the SAC was not drafted until May
25 of 2016. Similarly, the new summons at Dkt. 80 was not issued
26 until May 2016.

27 As to Defendant Officer Valdivia, he was purportedly served
28 on January 6, 2016, which also pre-dates the filing of the SAC.

1 Although Officer Valdivia was purportedly served at the Redlands
2 Police Department, while the other Officers were served at the San
3 Bernardino Police Department, all of the POS declarations claim
4 that the person served was a "Detective Jeffries" who is the
5 "Internal Affairs Seargent." (Cf., Dkt. 69 and Dkt. 70-79.) The
6 Court does not believe that the Redlands and San Bernardino Police
7 Departments both have Internal Affairs Sergeants named
8 "Detective Jeffries."

9 As to Officer Koalou, Plaintiff previously filed a POS signed
10 by process server, Marshall Toole, saying that this defendant was
11 served on October 12, 2015 by delivering papers to someone named
12 Jennifer Kohrell. (Dkt. 48.) Mr. Toole now says he served Officer
13 Koalou that same day by serving Detective Jeffries. (Dkt. 77.) This
14 inconsistency suggests to the Court that someone (possibly Mr.
15 Toole) is writing information into these POS forms without regard
16 to what actually happened.²

17 The POS declarations filed on May 20, 2016, do not show
18 proper service of the SAC on any defendant. Plaintiffs are hereby
19 ordered to accomplish proper service of the summons and SAC and
20 file POS declarations showing when and how that occurred.
21 Because of the above-cited discrepancies in the documents he has
22 signed, service must be accomplished by someone other than
23

24 ² The person Mr. Toole purportedly served on October 12, 2015, changed
25 from "Jennifer Kohrell" to "Detective Jeffries" for nearly all of the other
26 Individual SBPD Defendants, too. Cf. Dkt. 49 and 70 (Thornburg), Dkt. 50 and
27 74 (Vasquez), Dkt. 51 and 73 (Vega), Dkt. 52 and 71 (Schuelke), Dkt. 53 and 75
28 (Campos), Dkt. 54 and 78 (Madrigal), Dkt. 55 and 72 (Bennett), Dkt. 56 and 79
(Karmann), and Dkt. 58 and 76 (Luna).

1 Marshall Toole. It is not sufficient to “amend” POS declarations
2 prepared in 2015.

3 (Id. at 1-2.)

4 On August 2, 2016, Plaintiffs attended a hearing. (Dkt. 91, 109
5 [transcript].) During the hearing, Mr. Gaspard indicated that after receiving the
6 order instructing Plaintiffs not to use Mr. Toole as a process server, the “only
7 thing” that had been served were documents “to the attorneys.” (Dkt. 109 at
8 21.) Ms. Hrindich indicated that a new process server had “mailed the letters to
9 the officers who were involved,” but Plaintiffs could not “guarantee that he sent
10 them out.” (Id. at 21-22.) They indicated that a new process server, Brian, had
11 been selected by the law firm of the paralegal assisting them, Morris &
12 Company. (Id. at 22.) When the Court asked for confirmation that the new
13 process server had “gone out” to try to serve the defendants personally, Mr.
14 Gaspard indicated “that has been done,” but Ms. Hrindich indicated documents
15 were “mailed out.” (Id. at 22-23.) The Court advised Plaintiffs to check with
16 Morris & Company “today” to confirm that status of service, because no new
17 POS declarations had been filed despite the impending deadline. (Id.) Mr.
18 Gaspard indicated “that will be taken care of today.” (Id. at 26.)

19 The SAC was filed on May 9, 2016. (Dkt. 67.) The summons was issued
20 on May 20, 2016. Ninety days from May 20, 2016, expired on August 18, 2016,
21 without any effective service on the Individual SBPD Defendants.

22 The Court issued the initial version of the instant Report and
23 Recommendation on August 26, 2016. (Dkt. 93.) In response, on September 6,
24 2016, Plaintiffs filed objections (Dkt. 95) accompanied by twelve POS
25 declarations purporting to show service on the eleven Individual SBPD
26 Defendants and Chuck Rosenburg. (Dkt. 97-108.)

27 Each of the officers (except Valdivia) was purportedly served on July 20,
28 2016, by delivery of the Summons to “an African-American Subpoena Control

1 Officer” at the SBP Department. (Dkt. 97, 99-101, 103-108.) Defendant
2 Valdivia was purportedly served on the same day by delivery of the Summons
3 to “a white female Subpoena Control Officer” at his new employer, the
4 Redlands Police Department. (Dkt. 98.) Although service was purportedly
5 made on July 20, 2016 by a process server named Robert A. Cotton, Mr. Cotton
6 did not sign the POS declarations until September 1, 2016. (Id.)

7 Although months have passed since July, none of these officers have
8 appeared. This is consistent with the fact that none of the new POS declarations
9 demonstrates effective service. The defects in the new POS declarations include
10 all of the following:

11 • Nothing in the declarations indicate that the Individual SBPD
12 Defendants were served with both the summons and the SAC. See Fed. R. Civ.
13 P. 4(c) (“A summons must be served with a copy of the complaint.”).

14 • The SAC sues Officer “B. Karmann (Dkt. 67 at 2), but the POS
15 Declaration says “B. Karman” was the person served. (Dkt. 108.)

16 • The POS Declarations do not identify by name the person to whom Mr.
17 Cotton handed the papers – they only identify the person who received the
18 papers by title and race.

19 • More fundamentally, the POS Declarations indicate that the “subpoena
20 control officer” was authorized to accept service on behalf of the SBP, but not
21 on behalf of the individual officers. In another case where a federal plaintiff tried
22 to serve an individual officer by serving the officer at the front desk of the police
23 station, the District Court found that service was defective, as follows:

24 Plaintiff’s proof of service and his declaration in support of his
25 motion for default judgment state that the process server attempted
26 to serve [Officer] Wetzel also by delivering a copy of the summons
27 and FAC to Officer Garrett, who was working at the front office of
28 the San Diego Police Department located at 1401 Broadway. This

1 method of service appears to be improper under Rule 4(e)(2).
2 Wetzel was not personally served, nor was a copy of the summons
3 or the complaint left at Wetzel's dwelling. See Fed. R. Civ. P.
4 4(e)(2)(A)-(B). In addition, the proof of service does not state that
5 Officer Garrett was authorized to accept service on behalf of
6 Wetzel. See id. R. 4(e)(2)(C). It merely states that Officer Garrett
7 was authorized to accept service on behalf of SDPD. First, as
8 explained in the preceding section, Officer Garrett was not
9 authorized to accept service on behalf of SDPD. Second, even if he
10 was authorized, service on the police department does not constitute
11 valid service on its individual officers. See Taylor v. San Bernardino
12 Cnty. Sheriffs, 2009 U.S. Dist. LEXIS 96669, at *8-9 (C.D. Cal.
13 Oct. 19, 2009) (citing Daly-Murphy v. Winston, 837 F.2d 348, 355
14 (9th Cir. 1987) [service on authorized agent at VA medical center
15 was sufficient to serve medical center supervisors in their official
16 capacities but not in their individual capacities].).

17 Hupp v. San Diego County, 2012 U.S. Dist. LEXIS 97664, at *16-17 (S.D. Cal.
18 July 12, 2012).

19 For all of these reasons, nothing in Plaintiffs' objections or new POS
20 declarations changes the recommendation to dismiss the eleven Individual
21 SBPD Defendants without prejudice based on Plaintiffs' failure to accomplish
22 effective, timely service.

23 **B. Chuck Rosenberg**

24 Plaintiffs filed a defective POS declaration for Defendant Rosenberg back
25 in March 2016. (Dkt. 57.) The new POS declaration says that service was
26 accomplished by "Federal Rule of Civil Procedure 4(i)(3) by serving the
27 Attorney General of the United States and to Chuck Rosenberg, DEA
28 Administrator, by Certified Mail, Return Receipt on July 22, 2016." (Dkt. 102.)

1 Defendants in Bivens actions must be served as individuals pursuant to
2 FRCP 4(e), rather than as federal officers pursuant to FRCP 4(i), since such
3 actions are for damages, and cannot be viewed as actions against government.
4 Simpkins v District of Columbia Gov't, 108 F.3d 366, 368 (D.C. Cir. 1997).
5 FRCP 4(i) permits parties to be served by “following state law for serving a
6 summons in an action brought in courts of general jurisdiction in the state where
7 the district court is located or where service is made.” Fed. R. Civ. P. 4(e)(1).

8 Under California law, “summons may be served on a person outside this
9 state ... by sending a copy of the summons and of the complaint to the person
10 to be served by first-class mail, postage prepaid, requiring a return receipt.” Cal.
11 Civ. Proc. Code § 415.40. The California Code of Civil Procedure further
12 requires, however, that “if service is made by mail pursuant to Section 415.40,
13 proof of service shall include evidence satisfactory to the court establishing
14 actual delivery to the person to be served, by a signed return receipt or other
15 evidence.” Cal. Civ. Proc. Code § 417.20(a).

16 Here, despite purported service in July, Mr. Rosenberg has not appeared.
17 Again, the POS declaration does not indicate what papers other than the
18 summons (if any) were served, what address was used for mailing or whether
19 the “return receipt” was ever returned, indicating actual delivery. For these
20 reasons, Plaintiff have failed to demonstrate service on Mr. Rosenberg in a
21 manner that complies with the applicable California statutes.

22 **C. Ernest Lee Cartwright**

23 Plaintiffs have not filed anything evidencing attempted service on
24 Defendant Cartwright. Even Plaintiffs’ objections fail to mention any attempt
25 to locate or serve Mr. Cartwright.

26 **III.**

27 **DISCUSSION**

28 Federal Rule of Civil Procedure 4(m) provides that, if service of process is

1 not made within 90 days after the filing of the complaint, and the plaintiff cannot
2 show good cause why service was not made within that time, the action is
3 subject to dismissal without prejudice upon the Court's own initiative with
4 notice to the plaintiff. However, if the plaintiff shows good cause for the failure,
5 the Court must extend the time for service for an appropriate period.

6 The Ninth Circuit has held that, "[a]t a minimum, 'good cause' means
7 excusable neglect." See Boudette v. Barnette, 923 F.2d 754, 756 (9th Cir. 1991);
8 see also In re Sheehan, 253 F.3d 507, 512 (9th Cir. 2001). In Boudette, 923 F.2d
9 at 756, the Ninth Circuit stated that a plaintiff may be required to show the
10 following factors in order to bring the excuse to the level of good cause: "(a) the
11 party to be served personally received actual notice of the lawsuit; (b) the
12 defendant would suffer no prejudice; and (c) plaintiff would be severely
13 prejudiced if his complaint were dismissed." Here, there has been no showing
14 by Plaintiffs of any of these three factors.

15 Even in the absence of a showing of good cause, the Court has broad
16 discretion under Fed. R. Civ. P. 4(m) to extend the time for service. See, e.g.,
17 Sheehan 253 F.3d at 512. Here, however, the Court has decided not to exercise
18 such discretion because the Court finds that Plaintiffs' failure to effectuate
19 service evidences a lack of prosecution on Plaintiffs' part. As noted, the Court
20 provided notice to Plaintiffs regarding service of the summons and SAC on
21 Defendants in several minute orders (See Dkt. 68, 81) and at the August 2, 2016
22 hearing; however, Plaintiffs still failed to serve Defendants with the summons
23 and SAC effectively and failed to request additional time. The Court has
24 inherent power to achieve the orderly and expeditious disposition of cases by
25 dismissing actions for failure to prosecute. See Link v. Wabash R.R., 370 U.S.
26 626, 629-30 (1962).

27
28 In Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988), the Ninth Circuit

1 cited the following factors as relevant to the Court's determination whether to
2 dismiss an action for failure to prosecute: "(1) the public's interest in expeditious
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of
4 prejudice to the defendants; (4) the public policy favoring disposition of cases on
5 their merits, and (5) the availability of less drastic sanctions."

6 Here, the Court finds that the first, second and fifth Carey factors militate
7 in favor of dismissal. As a result of Plaintiffs' failure to serve the summons and
8 SAC on the Individual SBPD Defendants, Chuck Rosenberg and Ernest
9 Cartwright, this action has been and will continue to be stalemated. Moreover,
10 under the circumstances presented, it does not appear to the Court that there are
11 any less drastic sanctions available for the Court to impose. While the Court
12 finds that the third and fourth Carey factors do not militate in favor of dismissal,
13 the Court has concluded that the other three factors in this instance outweigh
14 the third and fourth factors.

15 V.

16 RECOMMENDATION

17 IT IS THEREFORE RECOMMENDED that the District Judge issue an
18 Order: (1) accepting this Report and Recommendation, (2) dismissing without
19 prejudice for lack of prosecution all claims against (i) the Individual SBPD
20 Defendants, (ii) Chuck Rosenberg, and (iii) Ernest Lee Cartwright.

21
22 Dated: September 16, 2016

Karen E. Scott

23
24 KAREN E. SCOTT
25 United States Magistrate Judge
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**Additional material
from this filing is
available in the
Clerk's Office.**