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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN R. RODRIGUEZ,

Plaintiff,

No. CIV S-10-0204 GEB EFB (TEMP) P

vs.

CITY OF STOCKTON, et al.,

Defendants.

ORDER

_____/

Plaintiff is a San Joaquin County Jail prisoner proceeding pro se with a civil rights action under 42 U.S.C. § 1983. On August 20, 2010, defendants moved to dismiss because there are state criminal charges pending related to issues arising in this case. On December 20, 2010, the court recommended that the motion to dismiss be denied, but that this action be stayed pending the outcome of the criminal charges.

Defendants have now filed a request for judicial notice. The court construes this as a request that the court take judicial notice under Rule 201(b)(2) of the Federal Rules of Evidence that the criminal charges have been resolved by a jury trial. The court takes judicial notice of that fact, vacates the December 20, 2010 findings and recommendations, denies defendants' August 20, 2010 motion to dismiss as moot and orders defendants to file their responsive pleading with twenty-one days.

1 Good cause appearing, IT IS HEREBY ORDERED that:

2 1. Defendants' January 11, 2011 request for judicial notice is granted in that the court
3 judicially notices that charges presented in San Joaquin County Case number SF112865 A have
4 been resolved by a jury;

5 2. The findings and recommendations issued December 20, 2010 are vacated;

6 3. Defendants' August 20, 2010 motion to dismiss, Dckt. No. 17, is denied as moot; and

7 4. Defendants' responsive pleading is due within twenty-one days. Defendants should
8 refer to the court's May 4, 2010 screening order for identification of remaining defendants and
9 claims.

10 DATED: February 3, 2011.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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