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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GLEN W. ROBISON, Plaintiff, v. SUPERIOR COURT, et al., Defendants.	} } } } } } }	Case No. CV 15-9959-VAP (KES) ORDER GRANTING IN PART PLAINTIFF’S MOTION FOR RECONSIDERATION
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On November 4, 2016, Plaintiff Glen W. Robison (“Plaintiff”) filed a motion for reconsideration (Dkt. 32) asking the Court to vacate its earlier Judgment (Dkt. 29) that dismissed his 42 U.S.C. § 1983 action with prejudice. For the reasons stated below, Plaintiff’s motion is GRANTED to allow Plaintiff to file objections to the Report and Recommendation (“R&R”).

**I.
BACKGROUND**

On December 21, 2015, Plaintiff filed a Complaint alleging civil rights violations against five Defendants: (1) Superior Court of California (Los Angeles County); (2) Governor Edmund G. Brown; (3) Jeffrey Beard (Secretary of California Department of Corrections and Rehabilitation

1 ["CDCR"]); (4) Max Huntzman (District Attorney, Internal Affairs); and
2 (5) Lee Baca ([former] Los Angeles County Sheriff). (Dkt. 1.) In accordance
3 with the Prison Litigation Reform Act of 1995 ("PLRA"), the Magistrate
4 Judge screened the Complaint and dismissed it with leave to amend. (Dkt.
5 17.)

6 After requesting and receiving an extension of time (Dkt. 19, 20),
7 Plaintiff filed his First Amended Complaint ("FAC") on June 17, 2016. (Dkt.
8 21.) In fact, Plaintiff mailed two copies of his FAC. One was mailed to the
9 Court's Spring Street address and accepted for filing (Dkt. 21 at 65) while the
10 other was mailed to the Department of Justice, also located at 312 N. Spring
11 Street (Dkt. 24-1 at 15.)

12 The FAC named the same five Defendants. Plaintiff alleged that his
13 constitutional rights were violated by California Assembly Bill ("AB") 109,
14 also known as the Criminal Justice Realignment Act (which allows certain
15 inmates to serve their sentences in county jail) while he was confined at the
16 Los Angeles County Jail from October 31, 2013 through November 26, 2014.
17 (FAC ¶¶ 1, 5, 14.)

18 Upon screening the FAC, on June 23, 2016, the Magistrate Judge issued
19 an R&R recommending that it be dismissed with prejudice. (Dkt. 23.) The 14-
20 page R&R explains why Plaintiff failed to state a claim against each
21 Defendant. (*Id.*) The Notice of Filing of the R&R advised Plaintiff that he
22 had until July 18, 2016, to file objections. (Dkt. 22.)

23 On July 5, 2016, the Court entered a Notice of Document Discrepancies.
24 (Dkt. 24.) That Notice alerted Plaintiff that the duplicate copy of his First
25 Amended Complaint received on June 17, 2016, was rejected for filing because
26 there was already a "First Amended Complaint on Docket #21." (*Id.*) The
27 Notice has attached to it the document that was rejected. That copy of the
28 FAC bears a "received, but not filed" stamp, in contrast to the one that was

1 accepted for filing and bears a “filed” stamp. (Cf. Dkt. 21 at 1 and Dkt. 24 at
2 2.)

3 On July 14, 2016, Plaintiff requested an extension of time to object to the
4 R&R until August 5, 2016, which was granted. (Dkt. 25, 26.) Plaintiff had
5 apparently not yet received the Notice of Document Discrepancies, because he
6 did not mention it.

7 Plaintiff, however, eventually received the Notice and thereafter failed to
8 file objections to the R&R. On September 2, 2016, the Court accepted the
9 R&R and entered Judgment dismissing Plaintiff’s claims with prejudice. (Dkt.
10 28, 29.)

11 On September 30, 2016, Plaintiff requested an extension of time to move
12 for reconsideration of the Judgment. (Dkt. 30.) He explained that he received
13 the Judgment on September 7, 2016, but needed an extension of the otherwise
14 applicable 30-day deadline because he has been hospitalized. (Id. at 1.) The
15 Court granted him an extension until November 7, 2016. (Dkt. 31.)

16 On November 4, 2016, Plaintiff filed the instant motion for
17 reconsideration under Federal Rules of Civil Procedure 59(e) and 60(b). (Dkt.
18 32.) Plaintiff complains that (1) he was not afforded an opportunity to object
19 to the R&R, (2) his FAC was rejected without explanation via the Notice of
20 Document Discrepancies, and (3) his FAC should not have been dismissed for
21 failure to prosecute. He asks that his case be reinstated to give him an
22 opportunity to file objections to the R&R.

23 II.

24 STANDARD OF REVIEW

25 Under the Federal Rules of Civil Procedure, Rules 59 and 60, a party
26 may move for relief from the effect of a final judgment or order. Fed. R. Civ.
27 P. 59(e), 60(b). The Central District’s Local Rule 7-18 provides the grounds on
28 which a motion for reconsideration may be made, as follows:

1 A motion for reconsideration of the decision on any motion may
2 be made only on the grounds of (a) a material difference in fact or
3 law from that presented to the Court before such decision that in
4 the exercise of reasonable diligence could not have been known to
5 the party moving for reconsideration at the time of such decision,
6 or (b) the emergence of new material facts or a change of law
7 occurring after the time of such decision, or (c) a manifest showing
8 of a failure to consider material facts presented to the Court before
9 such decision. No motion for reconsideration shall in any manner
10 repeat any oral or written argument made in support of or in
11 opposition to the original motion.

12 L.R. 7-18.

13 III.

14 ANALYSIS

15 Plaintiff's request for reconsideration presents new facts explaining
16 Plaintiff's failure to file objections to the R&R. Liberally construed, Plaintiff's
17 motion asserts that when Plaintiff received the Notice of Document
18 Discrepancies, he did not understand that the Court was merely rejecting a
19 duplicate copy of the FAC, and that another copy had already been accepted
20 and filed. Instead, Plaintiff apparently thought that his case had been
21 summarily dismissed by the Notice of Document Discrepancies, such that
22 there was no point in his objecting to the R&R.

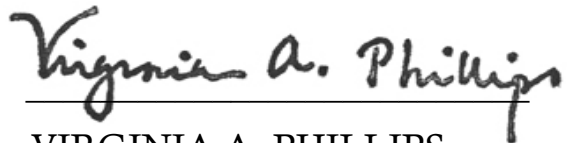
23 Plaintiff has no training in reading legal documents and could have
24 misunderstood the import of the Notice of Document Discrepancies. Other
25 than the deadline to object to the R&R, Plaintiff has diligently met all of the
26 deadlines in this case. The Court, therefore, accepts Plaintiff's explanation and
27 will reopen his case so that he can file objections to the R&R.

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IV.
CONCLUSION

For the reasons stated above, Plaintiff's motion for reconsideration (Dkt. 32) is GRANTED. The Judgment (Dkt. 29) is VACATED and Plaintiff shall have thirty (30) days from the date of this Order to file objections to the R&R.

Dated: November 9, 2016


VIRGINIA A. PHILLIPS
Chief United States District Judge

Presented by:


KAREN E. SCOTT
United States Magistrate Judge