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

GUSTAVO CAZARES MORALES,	)	No. CV-F-06-031 OWW/SMS P
	)	
	)	ORDER DENYING PLAINTIFF'S
Plaintiff,	)	MOTION FOR RECONSIDERATION
	)	(Doc. 21)
vs.	)	
	)	
KERN COUNTY SHERIFF'S	)	
DEPARTMENT,	)	
	)	
Defendant.	)	
	)	
	)	

By Order filed on July 25, 2007, Plaintiff's complaint was dismissed with leave to amend within 30 days of service of the Order. The docket in this action indicates that the July 25, 2007 Order was served on Plaintiff at his then-address. The July 25, 2007 Order was not returned to the Court as undeliverable.

Plaintiff did not file an Amended Complaint. Findings and Recommendation were issued by the Magistrate Judge on November 5, 2007 that the action be dismissed for failure to comply with a court order and for failure to state a claim upon which relief

1 may be granted. Plaintiff did not file objections to the  
2 Findings and Recommendation. By Order filed on January 25, 2008,  
3 the Findings and Recommendation were adopted. Judgment was  
4 entered on January 25, 2008.

5 On June 4, 2008, Plaintiff filed a Notice of Change of  
6 Address and a motion for reconsideration. Plaintiff, referring  
7 to the January 25, 2008 Order, asserts that he:

8 couldent reaspond to Courts corespondence  
9 becus I was beaing trafered to INS and  
10 Deported to Mexico wher I couldn't get iny  
11 and all corespondence from family or court  
12 document in regard to this case. Pleas let  
13 me reeopen this case base on lack of  
14 corespondenc and reeconsider not to dismiss  
my case without final argument of reasonable  
dout of this case motion. Please ulowe me to  
argue this case. I am back in custody with  
the U.S. Marshels. Pleas also orange court  
dete for me to upear in your court room.  
[sic]

15 Plaintiff lodged an Amended Complaint.

16 By Order filed on June 17, 2008, Plaintiff's motion for  
17 reconsideration was denied:

18 Plaintiff does not state when he was taken  
19 into INS custody and deported to Mexico.  
20 Neither of the Court Orders or the Findings  
21 and Recommendation were returned to the Court  
22 as undeliverable. Plaintiff presumptively  
23 received service of these papers. Nothing  
24 prevented Plaintiff from complying with the  
25 July 25, 2007 Order or from filing objections  
26 to the Findings and Recommendation, including  
the fact that Plaintiff may have been in  
Mexico. Plaintiff has not demonstrated good  
cause for his failure to comply with the July  
25, 2007 Order and has not shown that he  
acted with diligence.

On August 13, 2008, Plaintiff filed a second motion for

1 reconsideration. Plaintiff asserts:

2 ... On January 11<sup>th</sup>, 2007 I was released from  
3 prison and began my deportation to Mexico  
4 there by losing contact with family, friends  
5 and the court. The lack of contact with the  
6 above continued during mt [sic] in Mexico and  
7 I received no medical care, no housing  
8 assistance (therefore no mailing address) and  
9 no means of contacting my family in the  
10 United States or any means for them to  
11 contact me. Furthermore I was unable to hold  
12 down a job due to my medical limitations and  
13 lack of an address since I was homeless. Due  
14 to the injuries of this case after my  
15 deportation I came back to the United States  
16 on June 2<sup>nd</sup>, 2007 and was detained by INS and  
17 on June 3<sup>rd</sup>, 2007 I was placed into the  
18 custody of the United States Marshall,s.  
19 [sic]. I was then temporarily housed at the  
20 Florence Detention Center in Florence  
21 Arizona. While at the detention center I  
22 still had no contact with friends, family or  
23 the courts.

24 I was sentenced to a term of 6 months.  
25 During those 6months [sic] I was transferred  
26 to 5 other locations. I was not at any one  
location long enough to stabilize an address  
of correspondence. I therefore was unable to  
inform the court of an address with any  
permanence. Upon my release from Lompoc for  
the 6 month sentence, I was transferred to  
the Metropolitan Detention Center in Los  
Angeles California. This occured [sic] on  
December 2<sup>nd</sup>, 2007. I have been in custody  
here ever since ... I came into [sic] the  
Judges [sic] order based on my attorneys  
[sic] finding on the above mentioned docket  
text by the last service of mail order  
request. I hope in all due respect that I  
was able to prove to the Court and the Court  
Clerk as to why I could not respond to the  
Courts [sic] correspondence and allow me to  
as fore [sic] the Court to continue this  
case. I hope that I have proved to the court  
with proper information in black and white,  
and with proper documentation that supports  
my motion on lack of correspondence and  
accept my amended complaint.

1 Plaintiff's motion for reconsideration is DENIED. Plaintiff  
2 presumptively was served with the July 25, 2007 Order and the  
3 Findings and Recommendation issued November 5, 2007. Plaintiff  
4 makes no claim that he did not actually receive these documents.  
5 Plaintiff is obligated by Rule 83-182(f), Local Rules of Practice  
6 to notify the Clerk and all other parties of any change of  
7 address: "Absent such notice, service of documents at the prior  
8 address of the ... party shall be fully effective." After  
9 Plaintiff's illegal return to the United States from Mexico on  
10 June 2, 2007, Plaintiff could have advised the Court of his then  
11 current address. It is Plaintiff's obligation to file a notice  
12 of change of address each time it changes. Plaintiff has not  
13 demonstrated good cause for his failure to comply with the July  
14 25, 2007 Order and has not shown that he acted with diligence.

15 IT IS SO ORDERED.

16 Dated: February 10, 2009

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE