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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 MARCIAL PLATA,

1:06-cv-01023-LJO-GSA-PC

12 Plaintiff,

ORDER VACATING FINDINGS
AND RECOMMENDATIONS OF
JULY 23, 2010
(Doc. 33.)

13 vs.

14 WOODFORD, et al.,

ORDER FOR CLERK TO SEND
TO PLAINTIFF:

15 Defendants.

- 16 (1) COPY OF COURT'S THIRD
SCREENING ORDER (Doc. 32.)
17 (2) SECTION 1983 COMPLAINT
FORM

18 ORDER FOR PLAINTIFF TO COMPLY
WITH COURT'S THIRD SCREENING
19 ORDER WITHIN THIRTY DAYS
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21 _____/

21 Marcial Plata ("plaintiff") is a prisoner proceeding pro se and in forma pauperis with this
22 civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on August 7, 2006. (Doc.
23 1.) Plaintiff filed the First Amended Complaint on December 10, 2008. (Doc. 19.) Plaintiff filed
24 the Second Amended Complaint on April 24, 2009. (Doc. 26.)

25 On July 23, 2010, Findings and Recommendations issued, recommending that this action be
26 dismissed for plaintiff's failure to state a claim and failure to comply with the court's Third
27 Screening Order of June 4, 2010. (Doc. 32.) The Third Screening Order dismissed the Second
28 Amended Complaint and required Plaintiff to either filed a Third Amended Complaint or notify the

1 court that he wishes to proceed with the First Amended Complaint on the claims found cognizable
2 by the Court, within thirty days. Id. On August 16, 2010, Plaintiff filed Objections to the Findings
3 and Recommendations, asserting that he does not speak English and sometimes has difficulties
4 responding to the Court's orders. (Doc. 36.) Plaintiff notified the Court of his current address and
5 requested leave to proceed with this action.

6 Good cause appearing, the Court shall vacate the Findings and Recommendations and direct
7 the Clerk to re-serve the Court's June 4, 2010 Third Screening Order, together with a section 1983
8 complaint form. Plaintiff shall be required to comply with the Third Screening Order within thirty
9 days.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The Findings and Recommendations of July 23, 2010 are VACATED;
- 12 2. The Clerk is DIRECTED to re-serve a copy of the Court's June 4, 2010 Third
13 Screening Order upon Plaintiff, together with a section 1983 complaint form;
- 14 3. Within thirty days from the date of service of this order, Plaintiff shall comply
15 with the Third Screening Order by either:
 - 16 (1) filing a Third Amended Complaint, or
 - 17 (2) notifying the Court in writing that he is willing to proceed with
18 the claims found cognizable by the Court in the First Amended
19 Complaint; and
- 20 4. Plaintiff's failure to comply with this order shall result in a recommendation
21 that this action be dismissed.

22
23 IT IS SO ORDERED.

24 Dated: September 15, 2010

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE