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

BRETT ALEXANDER HALE,
Plaintiff, 1: 08 CV 0489 LJO AWI WMW PC
vs. ORDER RE MOTION (DOC 5)

FELIX IGBINOSA, et al.,
Defendants.

This action was initiated by a Notice of Removal filed on April 8, 2008, from Fresno County Superior Court. Pending before this court is Plaintiff’s motion, titled as a motion for reconsideration, to remand this action to state court.

Defendants removed this action pursuant to 28 U.S.C. § 1441(b). That section provides that any civil action “of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to residence or citizenship of the parties.” Plaintiff seeks to remand this action to state court on the ground that it is easier to litigate in state court.

Attached as Exhibit A to the notice of removal is a copy of the complaint filed in state courts. Plaintiff’s statement of claim indicates that defendants “violated Plaintiff’s 8th Amendment right to the U.S. Constitution.” This action is therefore properly in this court.

1 Convenience of litigation is not a ground for remand back to state court.

2 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion to remand this action to
3 state court is denied.

4 IT IS SO ORDERED.

5 **Dated: February 11, 2009**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

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