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

STEVEN W. ROSE,  
Plaintiff,  
vs.  
STATE OF CALIFORNIA,  
Defendant.

Case No. 1:08-cv-00681 LJO JLT (PC)  
ORDER VACATING FINDINGS AND  
RECOMMENDATIONS  
(Doc. 35)

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Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. In its screening order filed October 27, 2010, the Court instructed Plaintiff to either file a second amended complaint curing the deficiencies identified by the Court or notify the Court in writing of his willingness to proceed on his procedural due process claim. (Doc. 26.) Plaintiff failed to respond to the Court’s order. Accordingly, on March 18, 2011, the Court issued findings and recommendations recommending that this action be dismissed for Plaintiff’s failure to prosecute. (Doc. 35.)

On March 29, 2011, Plaintiff filed timely objections to the findings and recommendations. (Doc. 36.) Therein, Plaintiff indicates that he intended to notify the Court of his willingness to proceed on his cognizable procedural due process claim, but he accidentally filed the notice in the Sacramento Division of the Eastern District of California. (Id. at 1.) Plaintiff requests that the

1 undersigned vacate the March 18, 2011 findings and recommendations so that he may proceed on  
2 his cognizable procedural due process claim. (Id.)

3 Good cause appearing, it is **HEREBY ORDERED** that the findings and recommendations  
4 filed March 18, 2011 (Doc. 35) are **VACATED**.

5  
6 IT IS SO ORDERED.

7 Dated: March 31, 2011

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE