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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROBERT P. SMITH, III,

Plaintiff,

v.

CALIFORNIA DEPARTMENT
OF CORRECTIONS
AND REHABILITATION, et al.,

Defendants.

CASE NO. 1:09-cv-02088-LJO-SKO PC

APPEAL NO. 11-15439

KINGS COUNTY SUPERIOR COURT
CASE NO. 08C0403

ORDER REQUESTING LEAVE FROM
APPELLATE COURT TO CORRECT
CLERICAL MISTAKE PURSUANT TO FED.
R. CIV. P. 60(A)

(Doc. 20)

ORDER DIRECTING CLERK'S OFFICE TO
(1) SERVE THIS ORDER ON APPELLATE
COURT AND KINGS COUNTY SUPERIOR
COURT, AND (2) SERVE REMAND ORDER
OF SEPTEMBER 29, 2010, ON KINGS
COUNTY SUPERIOR COURT

Plaintiff Robert P. Smith, III is a state prisoner who was proceeding pro se in this civil action, which was removed on November 30, 2009, by Defendant California Department of Corrections and Rehabilitation. 28 U.S.C. § 1441(b). On September 29, 2010, the Court granted Plaintiff's motion to remand this action to Kings County Superior Court, but denied his motion for sanctions and costs brought pursuant to 28 U.S.C. § 1447(c) and Federal Rule of Civil Procedure 11. Plaintiff appealed the denial of his motion for sanctions and costs, and his appeal is currently pending before the United States Court of Appeals for the Ninth Circuit.

On September 29, 2010, the Clerk of the Court entered judgment separately but in conjunction with the Court's order granting Plaintiff's motion for remand and remanding the action

1 to Kings County Superior Court. Given the remand, the Clerk entered judgment in error and
2 pursuant to Federal Rule of Civil Procedure 60(a), the Court HEREBY REQUESTS leave from the
3 Ninth Circuit to correct this error by vacating the judgment entered on September 29, 2010.

4 Further, the Court HEREBY DIRECTS the Clerk of the Court to (1) serve a copy of this
5 order on the Ninth Circuit and Kings County Superior Court, and (2) serve a copy of the remand
6 order on Kings County Superior Court, in as much as the docket does not reflect service of the
7 remand order occurred (doc. 19).

8
9 IT IS SO ORDERED.

10 **Dated: December 21, 2011**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE