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6   **UNITED STATES DISTRICT COURT**

7   EASTERN DISTRICT OF CALIFORNIA

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ROBERT P. SMITH, III,   CASE NO. 1:09-cv-02088-LJO-SKO PC

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                        Plaintiff,   APPEAL NO. 11-15439
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       v.   ORDER VACATING JUDGMENT ENTERED
11   IN ERROR, AND DIRECTING CLERK'S
CALIFORNIA DEPARTMENT   OFFICE TO SERVE ORDER ON APPELLATE
12   OF CORRECTIONS   COURT
AND REHABILITATION, et al.,
13   (Docs. 20 and 38)
                        Defendants.
14   _____/

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Plaintiff Robert P. Smith, III is a state prisoner who was proceeding pro se in this civil action,
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which was removed on November 30, 2009, by Defendant California Department of Corrections and
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Rehabilitation. 28 U.S.C. § 1441(b). On September 29, 2010, the Court granted Plaintiff's motion
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to remand this action to Kings County Superior Court, but denied his motion for sanctions and costs
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brought pursuant to 28 U.S.C. § 1447(c) and Federal Rule of Civil Procedure 11. Plaintiff appealed
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the denial of his motion for sanctions and costs, and his appeal is currently pending before the United
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States Court of Appeals for the Ninth Circuit.
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On September 29, 2010, the Clerk of the Court entered judgment separately but in
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conjunction with the Court's order granting Plaintiff's motion for remand and remanding the action
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to Kings County Superior Court. Given remand, the Clerk entered judgment in error and on
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December 22, 2011, pursuant to Federal Rule of Civil Procedure 60(a), the Court sought leave from
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the Ninth Circuit to correct this error by vacating the judgment.
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1   On January 23, 2012, the Ninth Circuit remanded the case for the limited purpose of allowing

2   the Court to vacate the judgment entered in error. Accordingly, the judgment entered on September

3   29, 2010, is HEREBY ORDERED VACATED, and the Clerk's Office is DIRECTED to serve a

4   copy of this order on the Ninth Circuit. Fed. R. Civ. P. 60(a).

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6   IT IS SO ORDERED.

7   **Dated: January 24, 2012**   /s/ **Lawrence J. O'Neill**
                                        UNITED STATES DISTRICT JUDGE
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