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

TONIE ELMORE,	)	1:10-cv-01738-GSA-PC
	)	
Plaintiff,	)	ORDER VACATING ORDER DISMISSING
	)	CASE
vs.	)	(Doc. 26.)
	)	
E. FLIPPO, et al.,	)	ORDER FOR CLERK TO RE-OPEN CASE
	)	
Defendants.	)	
_____	)	

Tonie Elmore ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on September 2, 2010 at the United States District Court for the Central District of California. (Doc. 3.) On September 22, 2010, the case was transferred to the Eastern District of California. (Doc. 6.) On October 4, 2010, Plaintiff consented to Magistrate Judge jurisdiction in this action, and no other parties have made an appearance. (Doc. 9.)

On January 27, 2012, the court dismissed this action based on Plaintiff's failure to obey the court's order of December 13, 2010 in a timely manner. (Doc. 26.) However, the court now finds that Plaintiff's case should not have been dismissed on January 27, 2012, because on December 15, 2011, Plaintiff was granted a "ninety-day" extension of time in which to comply with the court's order.<sup>1</sup> (Doc. 23.) Therefore, as of January 27, 2012, Plaintiff had not failed to comply with the court's order in a

<sup>1</sup>The court stated in the January 27, 2012 order that Plaintiff had been granted a "thirty-day" extension of time and the thirty days had expired. (Doc. 26 at 1-2.)

1 timely manner, and the case should not have been dismissed on that basis. Based on these facts, the  
2 Court shall vacate its order of January 27, 2012 and direct the Clerk of Court to reopen this case.

3 In light of the foregoing, IT IS HEREBY ORDERED that:

- 4 1. The Court's order entered on January 27, 2012, which dismissed this action based on  
5 Plaintiff's failure to obey a court order, is VACATED; and
- 6 2. The Clerk of Court is directed to RE-OPEN this case.

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8 IT IS SO ORDERED.

9 **Dated: February 7, 2012**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE

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