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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

IN RE:) No.: 1:17-mc-00064-SAB
)
) APPEAL NO.: 18-70459
)
MICHAEL FRIES,) ORDER DIRECTING WRITTEN RESPONSE BY
) SUPERVISING DEPUTY ATTORNEY GENERAL
) **WITHIN SEVEN DAYS**
)
)
)
)

On December 14, 2017, the Court issued an order in this matter regarding Plaintiff Michael Fries’ assertions of continued difficulties in e-filing his complaint through the electronic case filing system at Kern Valley State Prison (“KVSP”) in Delano, California. The Court directed the Clerk of the Court to send Plaintiff’s complaint and application for leave to proceed in forma pauperis at issue in this matter to the Library Technical Assistant at KVSP. The Court then directed the Library Technical Assistant to submit Plaintiff’s complaint and application for filing to the United States District Court for the Eastern District of California, Fresno Division, pursuant to the applicable e-filing procedures. (ECF No. 9.)

On December 15, 2017, the Clerk of the Court mailed the complaint and application to proceed in forma pauperis to the Library Technical Assistant at KVSP as directed, and a copy of the Court’s order was served on Plaintiff and the Supervising Deputy Attorney General. (*Id.*)

Currently, the Court is informed that Plaintiff has filed a petition for writ of mandamus in the United States Court of Appeals for the Ninth Circuit, asserting that his case has not been opened. The Clerk of the United States District Court for the Eastern District of California also does not have records of Plaintiff’s case being opened in this Court. Plaintiff also states concerns that his complaint

1 be filed as of the date he originally provided it to prison officials for mailing to the Court, on August
2 17, 2017. (Proof of Service, ECF No. 1, at 32.)

3 Consequently, the Court finds it necessary to direct the Supervising Deputy Attorney General
4 in charge of the e-service program, Monica Anderson, to respond to these issues.

5 The Court further informs Plaintiff that under the mailbox rule, his complaint in a § 1983
6 action is deemed filed when it is delivered to prison authorities for mailing. Douglas v. Noelle, 567
7 F.3d 1103, 1107 (9th Cir. 2009). Further, the Court's docket reflects Plaintiff's proof of service by
8 mail in this matter, as indicated above.

9 Accordingly, it is HEREBY ORDERED that:

10 1. The Clerk of Court is directed to serve a copy of this order on Supervising Deputy
11 Attorney General, Monica Anderson;

12 2. Ms. Anderson shall file a written response within **seven (7) days** of this order. Ms.
13 Anderson may also comply with this order by providing written confirmation of the opening of
14 Plaintiff's case in the manner that was directed in the Court's December 14, 2017 order;

15 3. The Clerk of the Court is further directed to serve a copy of this order on the Clerk of
16 the Court for the United States Court of Appeals for the Ninth Circuit in Appeal No. 18-70459.

17
18 IT IS SO ORDERED.

19 Dated: May 1, 2018



UNITED STATES MAGISTRATE JUDGE