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

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11 BARRY L. BROOKINS,  
12 Plaintiff,

13 v.

14 RAJENDRA DWIVEDI,  
15 Defendant.

1:18-cv-00645-DAD-GSA-PC

**ORDER VACATING FINDINGS AND  
RECOMMENDATIONS ENTERED ON JULY  
25, 2018  
(ECF No. 10.)**

**ORDER DIRECTING CLERK TO RE-SERVE  
ORDER TO SHOW CAUSE ON PLAINTIFF  
(ECF No. 8.)**

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18 Barry L. Brookins ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*  
19 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On May 10, 2018, Plaintiff  
20 filed the Complaint commencing this action. (ECF No. 1.)

21 On June 4, 2018, the court screened the Complaint and issued an order to show cause  
22 requiring Plaintiff to respond within thirty days showing cause why this case should not be  
23 dismissed as barred by the applicable statute of limitations. (ECF No. 8.) The thirty-day  
24 deadline expired and Plaintiff did not file a response to the order to show cause.

25 On July 25, 2018, the court entered findings and recommendations to dismiss this case  
26 for Plaintiff's failure to comply with the order to show cause. (ECF No. 10.) On August 7,  
27 2018, Plaintiff filed objections to the findings and recommendations. (ECF No. 11.) Therein,  
28 Plaintiff asserts that he never received the court's order to show cause and does not want this

1 case to be dismissed. The court's record shows that the order to show cause was mailed to  
2 Plaintiff on June 4, 2018, at his address of record at Corcoran State Prison. (Court docket.)  
3 Nonetheless, based on Plaintiff's assertions in the objections, the court shall vacate the findings  
4 and recommendations and direct the Clerk of Court to re-serve the order to show cause on  
5 Plaintiff. Plaintiff is required to comply with the order to show cause within thirty days of the  
6 date of re-service of the order to show cause.

7 Therefore, based on the foregoing, IT IS HEREBY ORDERED that:

- 8 1. The court's findings and recommendations, entered on June 4, 2018, are  
9 VACATED;
- 10 2. The Clerk of Court is DIRECTED to re-serve the court's June 4, 2018 order to  
11 show cause on Plaintiff at his address of record; and
- 12 3. Plaintiff is required to comply with the order to show cause within thirty days of  
13 the date of re-service of the order to show cause.

14 IT IS SO ORDERED.

15 Dated: August 9, 2018

16 /s/ Gary S. Austin  
17 UNITED STATES MAGISTRATE JUDGE  
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