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

ABE WILLIAMS, JR.,

Petitioner,

No. CIV S-02-0864 MCE GGH P

vs.

ARNOLD SCHWARZENEGGER, et al.,

Respondents.

FINDINGS & RECOMMENDATIONS

_____/

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. On April 7, 2005, (Docket#. 48) plaintiff was granted leave to file a second amended complaint. Plaintiff filed a second amended complaint that was ultimately dismissed on October 2, 2006 (Docket#. 83). Before the court is plaintiff's July 23, 2009, motion for relief from judgment, pursuant to Fed. R. Civ. P. 60(b). Plaintiff seeks relief from the court's purported granting of plaintiff's request for voluntary dismissal on February 24, 2005.

Plaintiff is confused about the status of this case. No request for voluntary dismissal was ever ordered, as plaintiff sought reconsideration from his own request for dismissal which was granted (Docket # 48). The case then proceeded to judgment on the merits (Docket #'s 80, 83, 84), and plaintiff appealed. As far as the docket of this court shows, the appeal remains pending.

1 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's motion for relief
2 from judgment, pursuant to Rule 60(b), be denied.

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
5 days after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
8 shall be served and filed within ten days after service of the objections. The parties are advised
9 that failure to file objections within the specified time may waive the right to appeal the District
10 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: August 20, 2009

/s/ Gregory G. Hollows

GREGORY G. HOLLOWES
UNITED STATES MAGISTRATE JUDGE

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