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

KENNARD LEE DAVIS,

Plaintiff,

No. CIV S-04-821 LKK KJM P

vs.

M. KNOWLES, et al.,

Defendant.

ORDER

_____ /

Plaintiff is a prisoner proceeding pro se with an action under 42 U.S.C. § 1983. On September 1, 2009, the district judge assigned to this case adopted the findings and recommendations issued by the magistrate judge on June 1, 2009, and ordered this case dismissed as to all remaining defendants. The court also issued its judgement on September 1, closing the case. See Docket No. 140.

Plaintiff has moved several times to alter or amend the judgment. However, plaintiff does not state any objection to the substance of the court’s decision to dismiss his case as stated in the adopted findings and recommendations. Rather, plaintiff claims that he has never received a copy of the findings and recommendations. Plaintiff has submitted copies of grievance forms wherein he complains to officials at California State Prison-Sacramento, where he is housed, that he has not received all of the legal documents sent to him by this court,

1 including the findings and recommendations of June 1, 2009. See Docket No. 144 at 22. For
2 their part, the defendants have not responded to this allegation.

3 The court expresses no opinion or finding on whether prison officials have in fact
4 failed to deliver any legal documents due plaintiff. However, hearing no statement to the
5 contrary from defendants, and in an abundance of caution to uphold plaintiff's right to know and
6 object to the basis of the court's dismissal of his case, the court will order the Clerk of Court to
7 re-serve the findings and recommendations adopted by the court. Plaintiff will have twenty-one
8 days from the date of service of the findings and recommendations in which to supplement his
9 motion to alter or amend the court's judgment. That supplement should only state plaintiff's
10 objections, if any, to the findings and recommendations.

11 Finally, plaintiff has filed a supplemental motion for appointment of a guardian ad
12 litem. The text of and attachments to the motion refer, at least in part, to administrative
13 proceedings in which the California Department of Corrections and Rehabilitation (CDCR)
14 petitioned for renewal of involuntary psychotropic medication for plaintiff's mental disorder.
15 Those proceedings are not challenged in the instant case. At other points in the motion, plaintiff
16 seeks the appointment of counsel, not a guardian ad litem. Since this case is now closed, neither
17 of those appointments is available or appropriate. Therefore the supplemental motion for
18 appointment of a guardian ad litem will be denied.

19 Accordingly, IT IS HEREBY ORDERED that:

20 1. The supplemental motion for appointment of a guardian ad litem (Docket No.
21 143) is denied;

22 2. The Clerk of Court re-serve plaintiff with a copy of the findings and
23 recommendations entered June 1, 2009 (Docket No. 137); and

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1 3. Plaintiff has twenty-one days from the date of the court's re-service of the
2 findings and recommendations in which to supplement his motion to alter or amend judgment
3 (Docket No. 141).

4 DATED: January 27, 2010.


U.S. MAGISTRATE JUDGE

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