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

FRED LEON JACKSON, JR.,

Plaintiff,

No. CIV S-05-1872 LKK JFM P

vs.

DR. R. L. ANDREASEN, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On January 14, 2009, this court issued findings and recommendations recommending dismissal of this action without prejudice due to plaintiff's failure to timely file a pretrial statement. On February 20, 2009, the district court adopted the findings and recommendations in full and dismissed the action without prejudice. Judgment was entered on the same day.

On March 2, 2009 and March 6, 2009, plaintiff filed requests for reconsideration of the dismissal of this action. Therein, plaintiff alleges that he has been denied physical access to the prison law library since his transfer back to California Medical Facility (CMF). By his requests, plaintiff seeks an order setting aside the judgment and an extension of time to file objections to this court's findings and recommendations. By order filed April 2, 2009, this court construed these requests together as a motion for relief from judgment pursuant to Fed. R. Civ. P.

1 60(b) and directed plaintiff to, within thirty days, supplement the motion with (1) objections to
2 this court's January 14, 2009 findings and recommendations, including a proposed pretrial
3 statement; and (2) an opposition, if any he has, to defendants' September 26, 2009 motion for
4 summary judgment. In the same order, plaintiff was cautioned that failure to supplement the
5 motion with these documents would result in a recommendation that the motion be denied.

6 By order filed May 6, 2009, plaintiff was granted a thirty day extension of time to
7 supplement his Rule 60(b) motion. Thereafter, plaintiff filed two motions alleging denial of
8 access to the prison law library to which defendants were ordered to respond. By order filed
9 August 28, 2009, those motions were denied and plaintiff was granted one final period of thirty
10 days in which to supplement his motion for relief from judgment. That thirty day period has
11 expired and plaintiff has not filed any documents to supplement his Rule 60(b) motion.

12 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's March 2, 2009
13 and March 6, 2009 requests, construed as a motion for relief from judgment pursuant to Fed. R.
14 Civ. P. 60(b), be denied.

15 These findings and recommendations are submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
17 days after being served with these findings and recommendations, any party may file written
18 objections with the court. The document should be captioned "Objections to Magistrate Judge's
19 Findings and Recommendations." The parties are advised that failure to file objections within
20 the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
21 F.2d 1153 (9th Cir. 1991).

22 DATED: October 26, 2009.

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25 UNITED STATES MAGISTRATE JUDGE