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

ALBERT CRUZ,

Plaintiff,

No. CIV S-06-1387 DFL EFB P

vs.

UNKNOWN,

Defendant.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action pursuant to 42 U.S.C. § 1983. On September 26, 2006, the magistrate judge issued findings and recommendations recommending dismissal of the action due to plaintiff's failure to timely file both an amended complaint and an application to proceed *in forma pauperis*. By order filed January 9, 2007, the magistrate judge found that plaintiff had partially complied with the court's August 2, 2006 order by filing an application to proceed *in forma pauperis* and vacated the September 26, 2006, findings and recommendations.

Due to clerical error, on January 16, 2007, the undersigned issued an order adopting the September 26, 2006, findings and recommendations. The Clerk entered judgment the same day.

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1 Good cause appearing, the court's January 16, 2007, order and the accompanying
2 judgment are hereby VACATED. See Fed. R. Civ. P. 60(a). The Clerk is directed to reopen the
3 case.

4 DATED: January 18, 2007

5 /s/ David F. Levi
6 Hon. David F. Levi

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