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

JOHNAE HOYT,

Plaintiff,

No. CIV S-06-1795 LKK EFB P

vs.

MANNING, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On May 15, 2007, the magistrate judge screened plaintiff’s amended complaint and ordered plaintiff to submit documents to the court for service or process on defendants. Plaintiff failed to submit the requested documents and the magistrate judge issued findings and recommendations on November 20, 2007, recommending dismissal. On February 25, 2008, this court adopted the magistrate judge’s findings and recommendations and judgment was entered.

On March 12, 2008, plaintiff filed objections to this court’s order, stating that he never received a copy of the November 20, 2007 findings and recommendations, and described other circumstances that had rendered litigation of this action difficult for him. On June 16, 2008, this court found that plaintiff had alleged facts suggesting that relief from judgment was

1 appropriate and vacated its February 25, 2008 order adopting the magistrate judge's findings and
2 recommendations for dismissal. See Fed. R. Civ. P. 60(b). The court ordered plaintiff to, within
3 30 days from the date of the order, complete and submit to the court the documents for service.
4 The court also warned plaintiff that his failure to comply with the terms of the order would result
5 in reinstatement of the magistrate judge's November 20, 2007, findings and recommendations
6 and this court's February 25, 2008, order adopting them.

7 Once again, plaintiff failed to submit the requested documents. Accordingly, on
8 January 27, 2009, this court ordered that the magistrate judge's November 20, 2007, findings and
9 recommendations and this court's February 25, 2008, order adopting them be reinstated and
10 dismissed this action without prejudice.

11 On February 6, 2009, plaintiff filed a document styled, "Motion to Reinstate
12 Complaint," which the court construes as a request for relief from judgment.

13 Pursuant to Fed. R. Civ. P. 60(b):

14 On motion and just terms, the court may relieve a party or its legal
15 representative from a final judgment, order, or proceeding for the
16 following reasons: (1) mistake, inadvertence, surprise, or excusable
17 neglect; (2) newly discovered evidence that, with reasonable
18 diligence, could not have been discovered in time to move for a
19 new trial under rule 59(b); (3) fraud (whether previously called
intrinsic or extrinsic), misrepresentation, or misconduct by an
opposing party; (4) the judgment is void; (5) the judgment has been
satisfied, released or discharged; it is based on an earlier judgment
that has been reversed or vacated; or applying it prospectively is no
longer equitable; or (6) any other reason that justifies relief.


20 Plaintiff asserts that he never received this court's June 16, 2008 order granting him an additional
21 30 days to submit the required documents because he was paroled on April 2, 2008, but never
22 notified the court of his change in address. Plaintiff does not demonstrate he is entitled to relief
23 from judgment, as it is plaintiff's duty to keep the court advised as to his current address. L.R.
24 83-183(b).

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1 Accordingly, it is hereby ORDERED that plaintiff's February 6, 2009 filing,
2 construed as a request for relief from judgment, is denied. It is further ORDERED that
3 plaintiff's February 18, 2009 motion for an evidentiary hearing is denied as moot. The court
4 notes that it will issue no response to future filings by plaintiff in this action not authorized by the
5 Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure.

6 DATED: August 31, 2009.

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9 LAWRENCE K. KARLTON
10 SENIOR JUDGE
11 UNITED STATES DISTRICT COURT
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