

THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTIAN T. QUINTERO,	)	CIVIL NO. 2:08-00571 JMS-BMK
)	
Plaintiff,	)	ORDER: (1) VACATING THE
	)	FEBRUARY 23, 2011 ORDER
vs.	)	ADOPTING THE JANUARY 25, 2011
	)	FINDINGS AND RECOMMENDATION
JOHN DOE #1,	)	THAT THIS ACTION BE DISMISSED
	)	WITHOUT PREJUDICE; (2) SETTING
Defendant.	)	FORTH THE DEADLINE FOR
	)	OBJECTIONS TO THE JANUARY 25,
	)	2011 FINDINGS AND
	)	RECOMMENDATION THAT THIS
	)	ACTION BE DISMISSED WITHOUT
	)	PREJUDICE; AND (3) ORDERING THE
	)	CLERK OF COURT TO PROPERLY
	)	SERVE PLAINTIFF FILINGS IN THIS
	)	ACTION
)	

ORDER: (1) VACATING THE FEBRUARY 23, 2011 ORDER ADOPTING THE JANUARY 25, 2011 FINDINGS AND RECOMMENDATION THAT THIS ACTION BE DISMISSED WITHOUT PREJUDICE; (2) SETTING FORTH THE DEADLINE FOR OBJECTIONS TO THE JANUARY 25, 2011 FINDINGS AND RECOMMENDATION THAT THIS ACTION BE DISMISSED WITHOUT PREJUDICE; AND (3) ORDERING THE CLERK OF COURT TO PROPERLY SERVE PLAINTIFF FILINGS IN THIS ACTION

On January 25, 2011, U.S. Magistrate Judge Barry M. Kurren entered his Finding and Recommendation that this action be dismissed without prejudice due to Plaintiff Christian T. Quintero’s (“Plaintiff”) failure to name a defendant (the “January 25 F&R”). Because no objections were filed, the court adopted the

January 25 F&R on February 23, 2011, Doc. No. 42 (the “February 23 Order”), and this action was dismissed without prejudice. The Clerk’s Office subsequently determined, however, that the January 25 F&R was never sent to Plaintiff. The failure of the Clerk’s Office to provide a copy of the January 25 F&R is inexplicable -- this is now the second time the Clerk’s Office has failed to send copies of F&Rs in cases in which the undersigned is assigned (*see Arias-Maldonado v. Sisto et al.*, Civ. No. 02:08-00216 JMS/BMK, Doc. No. 56), and this failure both causes a delay in adjudicating these matters and wastes the court’s resources.

Because Plaintiff -- through no fault of his own -- has not received a copy of the January 25 F&R, the court VACATES the February 23 Order adopting the January 25 F&R. The court further DIRECTS the Clerk’s Office to (1) reopen this action, and (2) mail Plaintiff a copy of the January 25 F&R, the February 23 Order, and this Order.

If Plaintiff wishes to file an objection to the January 25 F&R, he may do so by March 16, 2011. If Plaintiff fails to file an objection by that date, the

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court will adopt the January 25 F&R and this action will be dismissed without prejudice.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, February 23, 2011.



/s/ J. Michael Seabright

J. Michael Seabright
United States District Judge

Quintero v. Doe, Civ. No. 2:08-00571 JMS-BMK, Order: (1) Vacating the February 23, 2011 Order Adopting the January 25, 2011 Findings and Recommendation That This Action Be Dismissed Without Prejudice; (2) Setting Forth the Deadline for Objections to the January 25, 2011 Findings and Recommendation That This Action Be Dismissed Without Prejudice; and (3) Ordering the Clerk of Court to Properly Serve Plaintiff Filings in This Action