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

CLAY MORRISON,

Plaintiff,

No. 2:09-cv-1544 MCE DAD P

v.

D. JUST, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights complaint pursuant to 42 U.S.C. § 1983. On May 24, 2010, Plaintiff’s second amended complaint was dismissed and Plaintiff was given thirty days leave to file a third amended complaint. (See ECF No. 18.) After that thirty-day period expired and no third amended complaint had been received by the Court, findings and recommendations were issued which recommended that this action be dismissed without prejudice. (ECF No. 19.) The findings and recommendations were adopted in full by the District Judge on August 19, 2010, and judgment was entered. (ECF Nos. 20, 21.)

On April 17, 2012, the Court received Plaintiff’s third amended complaint along with a motion to appoint counsel from California State Prison - Sacramento (CSP-Sacramento). (ECF Nos. 22, 23.) These filings were accompanied by letters from the warden noting that it had recently come to his attention that these two documents had not been delivered to the Court.

1 Petitioner's third amended complaint and motion to appoint counsel were delivered to prison
2 officials for mailing on or about June 21, 2010. No further explanation for the delay has been
3 provided.


4 Plaintiff did in fact comply with the May 24, 2010, order in light of his
5 submission of his third amended complaint to prison officials on or about June 21, 2010.
6 Additionally, Plaintiff has told the Court that he wishes to move forward with this action. (ECF
7 No. 25.) Thus, the order and judgment (ECF Nos. 20, 21) dated August 19, 2010, will be
8 vacated.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. The order and judgment entered August 19, 2010, (ECF Nos. 20, 21) are
11 VACATED; and

12 2. This matter is referred back to the Magistrate Judge for further proceedings.

13 Dated: November 6, 2012

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16 MORRISON C. ENGLAND, JR.
17 UNITED STATES DISTRICT JUDGE
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