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

JOSEPH B. MATTHEWS,

Plaintiff,

No. 2:09-cv-2415 GEB KJN P

vs.

LAHEY, et al.,

Defendants.

ORDER

_____/

On June 11, 2010, plaintiff filed a request for reconsideration of the magistrate judge’s order filed May 21, 2010 denying plaintiff’s motion for appointment of counsel. Plaintiff’s request was denied as untimely. (Dkt. No. 42.) On July 21, 2010, plaintiff filed a request to deem the motion for reconsideration timely filed in light of Houston v. Lack, 487 U.S. 266 (1988), and the addition of three days for mailing, pursuant to Fed. R. Civ. P. 6(d). Good cause appearing, plaintiff’s July 21, 2010 request will be granted. The July 1, 2010 order will be vacated, and the court will reconsider the May 21, 2010 order.

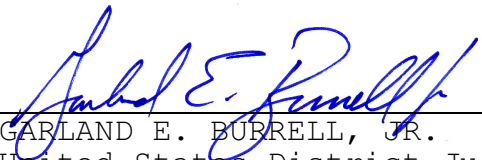
Pursuant to E.D. Local Rule 303(f), a magistrate judge’s orders shall be upheld unless “clearly erroneous or contrary to law.” Upon review of the entire file, the court finds that it does not appear that the magistrate judge’s ruling was clearly erroneous or contrary to law.

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Therefore, IT IS HEREBY ORDERED that:

1. Plaintiff's July 21, 2010 request is granted. (Dkt. No. 46.)
2. The July 1, 2010 order is vacated. (Dkt. No. 42.)
3. Upon reconsideration, the order of the magistrate judge filed May 21, 2010, is affirmed. (Dkt. No. 41.)

Dated: August 6, 2010



GARLAND E. BURRELL, JR.
United States District Judge