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

MALIK JONES,

No. 2:09-cv-03174-MCE-CKD P

Plaintiff,

vs.

ORDER

A. DAVID, et al.,

Defendants.

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Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. On December 28, 2011, the assigned magistrate judge issued findings and recommendations recommending that defendant Holmes’s November 15, 2011, motion to dismiss be granted due to plaintiff’s failure to file a response. (ECF No. 53.) On January 9, 2012, plaintiff filed objections stating that he inadvertently failed to respond to the motion because he believed the response deadline to be vacated (see ECF No. 42), and seeking an additional 21 days to respond to the motion. On January 30, 2012, this court adopted the magistrate’s December 28, 2011 findings and recommendations. (ECF No. 58.)

However, pursuant to Local Rule 303(g), providing that the assigned Judge may reconsider any matter at any time sua sponte, the court will vacate its January 30, 2012, order.

1 Rather, upon further consideration of plaintiff's objections, this court will decline to adopt the  
2 magistrate's findings and recommendations and grant Plaintiff an additional 21 days to respond  
3 to defendant Holmes's motion to dismiss.


4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The January 30, 2012 order adopting the magistrate's findings and recommendations  
6 of December 28, 2011 (ECF No. 58) is hereby vacated;

7 2. The court declines to adopt the magistrate's findings and recommendations of  
8 December 28, 2011; and

9 3. Plaintiff shall have 21 days from service of this order to respond to defendant  
10 Holmes's motion to dismiss.

11 Dated: February 7, 2012

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14 MORRISON C. ENGLAND, JR.  
15 UNITED STATES DISTRICT JUDGE  
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