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

DAVID UPTON,

Plaintiff,

No. 2: 10-cv-0658 KJN P

vs.

ARNOLD SCHWARZENEGGER, et al.,

Defendant.

ORDER

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Plaintiff is a state prisoner proceeding with a civil rights action pursuant to 42 U.S.C. § 1983. On April 16, 2010, this action was transferred to the United States District Court for the Central District of California.

On November 17, 2010, plaintiff filed a “Motion for Relief Pursuant to 18 U.S.C. § 3771,” which the Clerk of the Court docketed in the instant action. It does not appear that plaintiff intended to file this motion in the instant action. Rather, plaintiff intended to open a new action.

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Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to open plaintiff's motion for relief pursuant to 18 U.S.C. § 3771 (Dkt. No. 12) as a new action; and Dkt. No. 12 filed in the instant action shall be disregarded.

DATED: December 21, 2010

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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