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

DESHAWN MYRICK,

Plaintiff,

No. 2: 10-cv-1085 KJM JFM (PC)

vs.

IVES, et al.,

Defendant.

ORDER

_____/

Plaintiff is a federal prisoner proceeding pro se. On November 9, 2011, the court ordered plaintiff to return to the court within thirty days the USM-285 forms necessary to effect service on defendant Shank as well as two copies of the amended complaint. (See Dkt. No. 30.) On March 6, 2012, the magistrate judge issued findings and recommendations which recommended that the action be dismissed without prejudice as plaintiff had not responded in any way to the court’s November 9, 2011 order. (See Dkt. No. 31.) Plaintiff was given fourteen days to file objections to the findings and recommendations. After no objections were entered on the docket within fourteen days, the findings and recommendations were adopted and this case was closed. (See Dkt. No. 32.)

On January 15, 2013, several documents were discovered by the Clerk that were sent by plaintiff on or around March 18, 2012 to the Clerk for filing but never entered on the

1 docket due to a clerical error. These documents include a USM-285 form as well as objections
2 to the March 6, 2012 findings and recommendations.¹ Through these filings, it appears that
3 plaintiff has at least attempted to comply with the November 9, 2011 order. Therefore, in the
4 interest of justice, the order and judgment in this case will be vacated. The findings and
5 recommendations that recommended dismissal without prejudice for failing to respond to the
6 November 9, 2011 order will also not be adopted in light of plaintiff's filings that were only
7 recently discovered.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The April 10, 2012 order and judgment (Dkt. Nos. 32 & 33) are VACATED
10 and this case is reopened;
- 11 2. The March 6, 2012 findings and recommendations (Dkt. No. 31) are not
12 adopted; and
- 13 3. This matter is referred back to the magistrate judge for further proceedings.

14 DATED: January 23, 2013.

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17 UNITED STATES DISTRICT JUDGE
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26 ¹ The objections that were discovered appear to be missing pages as only three pages
were entered on the docket. (See Dkt. No. 34.)