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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DONALD OLIVER HOOKER,  
Plaintiff,  
v.  
T. KIMURA-YIP, et al.,  
Defendants.

No. 11cv0899 LKK CKD P

**ORDER**

Pending before the court is Petitioner’s motion to vacate this court’s order adopting the Findings and Recommendations of the Magistrate Judge, and dismissing the case with prejudice.

On December 18, 2012, the Magistrate Judge signed an order granting Petitioner a sixty (60) day extension of time to file and serve objections to her Findings and Recommendations. See ECF No. 39. However, before the time extension had expired, this court adopted the Findings and Recommendations and dismissed the petition, in part because Petitioner had failed to file his objections in time. This was plain error, apparently resulting from the court’s failure to reckon properly the time available for Petitioner to file his objections. Defendant’s motion to vacate will therefore be granted.

Accordingly, it is hereby ordered that:

1. Petitioner’s motion to vacate (ECF No. 39), is hereby **GRANTED**, and the

1 Order and Judgment of February 14, 2013 (ECF Nos. 35 and 36), are hereby

2 **VACATED;**

3 2. Petitioner is granted sixty (60) days from the date of this order to file his  
4 objections to the Magistrate Judge's September 14, 2012 Findings and  
5 Recommendations (ECF No. 28).

6 IT IS SO ORDERED.

7 DATED: August 26, 2013.

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LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

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