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

JAMES ARMSTEAD,

Plaintiff,

No. 2: 11-cv-1054 JAM KJN P

vs.

TIM V. VIRGA, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On January 10, 2013, plaintiff filed a notice of appeal as to the December 6, 2012 order denying his motions for injunctive relief. In the notice of appeal, plaintiff requests an extension of time to file his appeal.

On March 1, 2013, the Ninth Circuit Court of Appeals issued an order finding that plaintiff's appeal was not filed within thirty days after entry of the December 6, 2012 order as required by Federal Rule of Appellate Procedure 4(a). The Ninth Circuit remanded this matter to this court to rule on plaintiff's request for extension of time to file his appeal.

In the notice of appeal, plaintiff states that he was unable to file a timely notice of appeal because the prison law library was closed or inaccessible due to the winter holiday. Based on this representation, the undersigned finds that plaintiff's request for extension of time is supported

1 by good cause. Fed. R. App. P. 4(5)(A)(ii) (motion for extension of time to file appeal must show
2 excusable neglect or good cause).

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff's request for an extension of time to file his appeal is granted; plaintiff's
5 notice of appeal (Dkt. No. 71) is deemed timely; and


6 2. The Clerk of the Court shall serve a copy of this order on the Ninth Circuit Court
7 of Appeals.

8 DATED: March 4, 2013

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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