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

EDWARD WILLIAMS,

Petitioner,

No. 2: 11-cv-1762 WBS KJN P

vs.

MIKE MARTEL,

Respondent.

ORDER

_____/

Petitioner is a state prisoner, proceeding without counsel, with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 14, 2011, the magistrate judge recommended that the petition be denied. On November 21, 2011, the findings and recommendations were returned unserved with a notation that petitioner had been “discharged.”

On January 3, 2012, the undersigned adopted the findings and recommendations. In this order, the undersigned observed that the findings and recommendations served on petitioner were returned although petitioner was properly served. On January 10, 2012, the January 3, 2012 order was returned unserved with a notation that petitioner’s name and the CDCR number on the order did not match. On January 11, 2010, the January 3, 2012 order was re-served on petitioner.

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1 On January 18, 2012, petitioner filed a motion for reconsideration of the January
2 3, 2012 order. This motion is construed as a request for relief from judgment pursuant to Federal
3 Rule of Civil Procedure 60(b).

4 In the request for relief from judgment, petitioner states that he has been
5 incarcerated at Mule Creek State Prison since he filed the original habeas petition in this action.
6 Because it appears that the November 14, 2011 findings and recommendations were improperly
7 returned, the undersigned orders this action reopened and directs the Clerk of the Court to re-
8 serve the findings and recommendations on petitioner.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Petitioner's motion for reconsideration (Dkt. No. 17), construed as a request
11 for relief from judgment, is granted;

12 2. This action is reopened and judgment is vacated;

13 3. The Clerk of the Court is directed to re-serve the November 14, 2011 findings
14 and recommendations on petitioner.

15 DATED: January 25, 2012

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17 WILLIAM B. SHUBB
18 UNITED STATES DISTRICT JUDGE
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21 will1762.ord
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