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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANGEL OLIVERA,
Plaintiff,
v.
MATTHEW CATE, et al.,
Defendants.

No. 2:13-cv-2376 CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has requested that this court reconsider its January 8, 2014 order dismissing this action without prejudice due to plaintiff’s failure to timely file an application to proceed in forma pauperis.¹

A district court may reconsider a ruling under either Federal Rule of Civil Procedure 59(e) or 60(b). See Sch. Dist. Number. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993). “Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” Id. at 1263.

¹ Plaintiff consented to this court’s jurisdiction pursuant to 28 U.S.C. § 636(c) and Local Rule 302.

1 Here, plaintiff has presented evidence that he attempted to submit a completed application
2 to proceed in forma pauperis by placing it in the prison mail. Prison records show that it was sent
3 on December 3, 2013. (See ECF No. 9, Exs. 1 and 2.) For unknown reasons, the application did
4 not reach the court. In light of this newly discovered evidence, the court will consider plaintiff's
5 application timely filed, reopen this matter, and proceed to screen the complaint filed November
6 15, 2013.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's motion for reconsideration (ECF No. 9) is granted; and
- 9 2. The Clerk of Court shall vacate the January 8, 2014 order of dismissal and re-open this
10 case.

11 Dated: February 7, 2014



12 CAROLYN K. DELANEY
13 UNITED STATES MAGISTRATE JUDGE

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