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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ORLANDO CERDA,
Plaintiff,
v.
SACRAMENTO CITY POLICE K-9
DIVISION,
Defendants.

No. 2:14-cv-1712 KJN P

ORDER

Plaintiff is an inmate currently awaiting sentencing. Plaintiff consented to proceed before the undersigned for all purposes. See 28 U.S.C. § 636(c). On September 19, 2014, plaintiff's complaint was dismissed, and plaintiff was granted thirty days to file an amended complaint. (ECF No. 7.) On October 24, 2014, plaintiff was ordered to show cause why this action should not be dismissed based on his failure to file an amended complaint or otherwise respond to the court's order. (ECF No. 9.) The record reflects that both the September 19 and October 24, 2014 orders were returned as undeliverable by the U.S. Postal Service. However, pursuant to Local Rule 182(f), service of documents at the party's address of record is fully effective. Id. Plaintiff had not filed a change of address notice.

On December 15, 2014, this action was dismissed based on plaintiff's failure to show cause. (ECF No. 10.) This order and the judgment were not returned by the U.S. Postal Service.

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1 On February 5, 2015, plaintiff filed a request to reinstate his case. Plaintiff claims that he
2 was between an early release from Rio Cosumnes Correctional Center and a new arrest on or
3 about December 15, 2014, and claims he is currently awaiting sentencing. (ECF No. 12.)

4 The undersigned construes plaintiff's motion as a motion for relief from judgment
5 pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Plaintiff's motion is timely
6 because it was filed within one year of entry of judgment. Fed. R. Civ. P. 60(c)(1). The
7 undersigned finds that plaintiff should be relieved from the final judgment based on his mistake,
8 inadvertence or excusable neglect. Fed. R. Civ. P. 60(b)(1). The December 15, 2014 order and
9 judgment are vacated. However, plaintiff is cautioned that he is under a continuing duty to keep
10 this court informed of his current address. Local Rule 182(f). Moreover, plaintiff is responsible
11 for diligently prosecuting his case.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff's motion (ECF No. 12), construed as a motion for relief from judgment, is
14 granted.
- 15 2. The December 15, 2014 order and judgment (ECF Nos. 10, 11) are vacated.
- 16 3. Within thirty days from the date of this order, plaintiff shall file an amended complaint
17 that complies with the September 19, 2014 order. Failure to timely comply with this order will
18 result in the dismissal of this action.
- 19 4. The Clerk of the Court is directed to send plaintiff the form for filing a civil rights
20 action by a prisoner.

21 Dated: March 5, 2015

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23 _____
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

26 cerd1712.60b