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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSH THOMAS,  
Plaintiff,  
v.  
BRIAN ROBERTS, et al.,  
Defendants.

No. 2:16-cv-0724 CKD P

ORDER

Plaintiff has filed a motion asking that the court reconsider its June 1, 2017 order dismissing this action for plaintiff’s failure to file an amended complaint. Essentially, plaintiff argues that the amended complaint the court received on May 30, 2017 is timely. Plaintiff has consented to having all matters in this action before a United States Magistrate Judge. See 28 U.S.C. § 636(c).

As the court explained in its June 9, 2017 post-judgment order, the deadline for filing an amended complaint was May 17, 2017; plaintiff was granted 30 days from April 17, 2017 to file his amended complaint. In the amended complaint, plaintiff asserts he placed it in the legal mail collection system at the California Medical Facility on May 20, 2017. Court documents submitted by prisoners are generally deemed filed for the purposes of federal court deadlines on the day the document is given to a prison official for mailing. See Houston v. Lack, 487 U.S.

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1 266, 270-71 (1988). Even considering this “mailbox rule,” plaintiff’s amended complaint was  
2 three days late.<sup>1</sup>

3 For these reasons, and for the reasons stated in the court’s June 9, 2017 order, judgment  
4 will not be vacated.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff’s June 15, 2017 motion for  
6 reconsideration (ECF No. 28) is denied.

7 Dated: July 18, 2017

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CAROLYN K. DELANEY  
10 UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Plaintiff argues he was entitled to extra time pursuant to Federal Rule of Civil Procedure 6(d)  
26 which adds three days to any time period when a litigant must act “within a specified time after  
27 being served.” However, plaintiff was not ordered to file his amended complaint within 30 days  
28 of “service” of the April 17, 2017 order, he was ordered to file his amended complaint within 30  
days of the “date” of the order.