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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RANDY PERKINS,
Plaintiff,
v.
PAUL D. BRAZELTON, Warden, et al.,
Defendants.

No. 2:16-cv-2935 KJN P

ORDER

Plaintiff, a state prisoner proceeding pro se, filed a civil rights action pursuant to 42 U.S.C. § 1983, and an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Plaintiff consented to proceed before the undersigned for all purposes. See 28 U.S.C. § 636(c).

On February 8, 2017, this action was dismissed based on plaintiff's failure to timely comply with the court's December 30, 2016 order. On February 9, 2017, plaintiff filed an undated application to proceed in forma pauperis. The appended certificate appears to have been dated by plaintiff on January 22, 2017, but the certifying officer appears to have crossed out that date and signed the certificate on January 30, 2017. On February 23, 2017, plaintiff filed a motion for relief from judgment. Plaintiff provided a copy of his request for a certified copy of his trust account statement which was dated January 8, 2017. (ECF No. 8 at 5.) Good cause appearing, the order of dismissal and judgment are vacated. Fed. R. Civ. P. 60(b).

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1 In his complaint, plaintiff alleges violations of his civil rights by defendants. The alleged
2 violations took place in Fresno County, which is part of the Fresno Division of the United States
3 District Court for the Eastern District of California. See Local Rule 120(d).

4 Pursuant to Local Rule 120(f), a civil action which has not been commenced in the
5 proper¹ division of a court may, on the court's own motion, be transferred to the proper division
6 of the court. Therefore, this action will be transferred to the Fresno Division of the court. In light
7 of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed
8 in forma pauperis.


9 Good cause appearing, IT IS HEREBY ORDERED that:

- 10 1. The order of dismissal and judgment (ECF Nos. 5 & 6) are vacated;
- 11 2. This court has not ruled on plaintiff's request to proceed in forma pauperis;
- 12 3. This action is transferred to the United States District Court for the Eastern District of
13 California sitting in Fresno; and
- 14 4. All future filings shall reference the new Fresno case number assigned and shall be

15 filed at:

16 United States District Court
17 Eastern District of California
2500 Tulare Street
Fresno, CA 93721

18 Dated: March 3, 2017

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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27 ¹ Venue of this action is technically appropriate in the Eastern District of California because the
28 Governor of the State of California resides in this district. However, it is clear that plaintiff is
suing the Governor of the State of California solely in a respondeat superior capacity.