1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 FOR THE EASTERN DISTRICT OF CALIFORNIA 9 10 ANTHONY HERNANDEZ, No. 2:17-cv-01803-KJM-DMC 11 Plaintiff, 12 **ORDER** v. 13 THOMAS, 14 Defendant. 15 16 17 The court entered judgment against plaintiff, a prisoner proceeding pro se, on 18 August 9, 2019, after adopting the magistrate judge's findings and recommendations, ECF No. 19 58, and granting defendant's motion to dismiss. ECF Nos. 63, 64. Although plaintiff was 20 previously granted a fourteen-day extension of time, he did not object to the findings and 21 recommendations recommending the court grant defendant's motion to dismiss. See ECF No. 60. 22 Four days after the court entered judgment, plaintiff filed a request for relief from 23 judgment, explaining he missed the deadline to file objections, because the El Dorado County 24 Jail, where he was incarcerated, did not furnish him adequate legal resources, such as blank paper 25 and pre-paid envelopes, until after the deadline passed. Mot., ECF No. 65, at 3. Defendant 26 opposes, arguing plaintiff had several months to file objections to the findings and 27 recommendations before the court entered judgment, but failed to do so. 28 1

1	Given plaintiff's incarceration and pro se status, the court finds his inability to file
2	timely objections due to lack of legal resources at El Dorado County Jail constitutes "excusable
3	neglect" for which relief may be granted under Federal Rule of Civil Procedure 60(b)(1). See
4	Stutesman v. Campbell, 2007 WL 779754, * 2 (E.D. Cal. March 14, 2007) (finding
5	excusable neglect in filing of untimely appeal based upon prisoner's limited access to the prison
6	library, "during which time he 'diligently sought research on the application to appeal on the
7	mechanics of requesting a Certificate of Appealability' and on 'procedural bars and defaults.'");
8	Tate v. Wiggins, No. 3:18-CV-230, 2019 WL 2716897, at *2 (W.D. Pa. June 28, 2019) (noting
9	inability to access legal resources to look up a deadline would counsel in favor of finding
10	"excusable neglect"). Furthermore, the motion was filed within a reasonable time after judgment
11	was entered. Fed. R. Civ. P. 60(c)(1) ("A motion under Rule 60(b) must be made within a
12	reasonable time").
13	Therefore, plaintiff's motion for relief from judgment is GRANTED. The order
14	adopting the magistrate judge's findings and recommendations, ECF No. 63, and the entry of
15	judgment, ECF No. 64, is VACATED. Plaintiff shall have fourteen (14) days to file objections to
16	the findings and recommendations, ECF No. 58. This order resolves ECF No. 65.
17	Plaintiff's request for the address of the Ninth Circuit and for an appeal form, ECF
18	No. 66, is DENIED without prejudice, as moot, given the court's conclusion above.
19	IT IS SO ORDERED.
20	DATED: August 27, 2019.
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22	LINUTED STATES DISTRICT HIDGE
23	UNITED STATES DISTRICT JUDGE
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