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\*E-FILED - 9/13/10\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT LEE JENKINS, JR., )  
 )  
 Plaintiff, )  
 v. )  
 )  
 CAPLAN, et al., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

No. C 02-5603 RMW (PR)  
  
ORDER DIRECTING DEFENDANTS  
TO SHOW CAUSE OR FILE  
STATEMENT OF NON-OPPOSITION

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On June 7, 2007, plaintiff filed a third amended complaint. On February 9, 2010, the court granted defendants' motion to dismiss for failure to exhaust and dismissed all defendants except Caplan, who had yet to be served.

In light of Rhodes v. Robinson, No. 08-16363 (9th Cir. Sept. 8, 2010), respondent is directed to show cause why the court should not vacate its February 9, 2010 order. Within **seven (7) days** of the filing date of this order, defendants shall file a response or statement of non-opposition. If defendants fail to file a response, the court will assume that defendants do not oppose vacating the February 9, 2010 order.

IT IS SO ORDERED.

DATED: 9/13/10

  
\_\_\_\_\_  
RONALD M. WHYTE  
United States District Judge

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On 9/13/10 \_\_\_\_\_, a copy of this ruling was mailed to the following:

Robert Lee Jenkins, Jr.  
H-53355  
CMC - East AQ 1134  
P.O. Box 8101  
San Luis Obispo, CA 93409-8101