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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JEFF S. GOUGH-ADSHIMA,  
CDCR #V-64431,  
  
Plaintiff,  
  
vs.  
  
ARNOLD SCHWARZENEGGER, et al.,  
  
Defendants.

Civil No. 08-0992 IEG (NLS)

**ORDER GRANTING PLAINTIFF’S  
MOTION FOR RELIEF FROM  
JUDGMENT PURSUANT TO  
FED.R.CIV.P. 60(b)**

**[Doc. No. 5]**

**I. PROCEDURAL HISTORY**

On May 29, 2008, Jeff Gough-Adshima (“Plaintiff”), a former state inmate housed at Chuckawalla State Prison located in Blythe, California and proceeding pro se, filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. The Court issued an Order on July 3, 2008 granting Plaintiff’s Motion to Proceed *in forma pauperis* (“IFP”) and sua sponte dismissed his Complaint for failing to state a claim and for seeking money damages against immune Defendants. (*See* July 3, 2008 Order at 6-7.) Plaintiff was given leave to file an Amended Complaint but never did so. (*Id.*) On March 25, 2009, Plaintiff filed a “Motion to Vacate, Set Aside and Reopen the Civil Proceedings” pursuant to FED.R.CIV.P. 60(b) [Doc. No. 5].

1 **II. PLAINTIFF’S MOTION TO VACATE FINAL JUDGMENT [Doc. No. 5]**

2 Under Rule 60(b), a motion for “relief from judgment or order” may be filed within a  
3 “reasonable time,” but usually must be filed “not more than one year after the judgment, order,  
4 or proceeding was entered or taken.” FED.R.CIV.P. 60(b). Reconsideration under Rule 60 may  
5 be granted in the case of: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly  
6 discovered evidence; or (3) fraud; or if (4) the judgment is void; (5) the judgment has been  
7 satisfied; or (6) for any other reason justifying relief. FED.R.CIV. P. 60(b).

8 Here, Plaintiff claims that he did not receive the Court’s Order issued on July 3, 2008  
9 because he was released from Chuckawalla State Prison on June 18, 2008. (*See* Pl.’s Mot. at 6.)  
10 While nearly a year has passed since the Court issued its previous Order, and Plaintiff’s  
11 Complaint suffered from some serious deficiencies of pleading, the Court will reopen the case  
12 and permit Plaintiff to file a First Amended Complaint.


13 However, Plaintiff is cautioned that he must comply with the Court’s July 3, 2008 Order  
14 in all respects and he must comply with FED.R.CIV.P. 8. If Plaintiff’s Amended Complaint does  
15 not state a claim or seeks money damages against immune Defendants, the Court will dismiss  
16 this action.

17 **III. CONCLUSION AND ORDER**

18 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s Motion for Relief  
19 from Judgment [Doc. No. 5] pursuant to FED.R.CIV.P. 60(b) is **GRANTED**. The Clerk of Court  
20 is directed to reopen the case. Plaintiff is further **GRANTED** forty five (45) days leave from  
21 the date this Order is “Filed” in which to file a First Amended Complaint which cures all the  
22 deficiencies of pleading noted in the Court’s July 3, 2008 Order. Plaintiff’s Amended Complaint  
23 must be complete in itself and without reference to his original Complaint. *See* S.D. CAL. CIVLR  
24 15.1.

25 **IT IS SO ORDERED.**

26 **DATED: March 30, 2009**

27   
28 **IRMA E. GONZALEZ**, Chief Judge  
United States District Court