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

EDWIN MARRERO,

Plaintiff,

vs.

VAN A ROSE, et al.,

Defendants.

1:10-cv-00509-LJO-GSA-PC

ORDER VACATING FINDINGS
AND RECOMMENDATIONS OF
OCTOBER 25, 2012
(Doc. 41.)

ORDER DIRECTING CLERK TO
FILE PLAINTIFF’S FIRST AMENDED
COMPLAINT WHICH WAS LODGED
ON OCTOBER 29, 2012
(Doc. 42.)

_____ /

Plaintiff is a federal prisoner proceeding pro se with a civil rights action pursuant to Bivens v. Six Unknown Agents, 42 U.S. 388 (1971). On October 25, 2012, the undersigned issued findings and recommendations to dismiss this action, based on plaintiff’s failure to obey a court order requiring him to file a First Amended Complaint. (Doc. 41.) On October 29, 2012, the court received Plaintiff’s First Amended Complaint, which was lodged by the court. (Doc. 42.) On November 29, 2012, Plaintiff filed objections to the findings and recommendations, asserting that he had timely mailed the First Amended Complaint to the court on October 13, 2012. (Doc. 43.) In light of the lodging of Plaintiff’s First Amended Complaint, and good cause appearing, the court shall vacate the findings and recommendations and file the First Amended Complaint.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations of October 25, 2012 are VACATED;
2. The Clerk of Court is DIRECTED to file Plaintiff's First Amended Complaint which was lodged on October 29, 2012 (Doc. 42.); and
3. Plaintiff's First Amended Complaint shall be screened in due time.

IT IS SO ORDERED.

Dated: November 30, 2012

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE