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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTHONY GASTON,

Plaintiff,

v.

TOMMY REDMON,

Defendant.

CASE NO. 1:09-cv-01434-AWI-SKO PC

ORDER VACATING FINDINGS AND RECOMMENDATIONS

(Doc. 15)

and

ORDER GRANTING DEFENDANT’S MOTION FOR AN EXTENSION OF TIME

(Doc. 22)

Plaintiff Anthony Gaston (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 29, 2010, the Court issued Findings and Recommendations recommending dismissal of this action. Plaintiff’s complaint was dismissed by the Court on February 11, 2010, for failing to state any claims and Plaintiff was given leave to file an amended complaint. However, Plaintiff did not file an amended complaint on time and the Findings and Recommendations issued.

Plaintiff subsequently requested and received two extensions of time to file objections to the Findings and Recommendations. Plaintiff filed his first amended complaint on July 9, 2010. (Doc. #21.) The Court will vacate the Findings and Recommendations and permit Plaintiff to proceed in this action on his first amended complaint.

On July 14, 2010, Defendant filed a request that Plaintiff’s first amended complaint be screened by the Court pursuant to 28 U.S.C. § 1915A(a). Defendant also requests that he receive

1 an extension of time to file a response to Plaintiff's first amended complaint. In light of the Court's
2 statutory obligation to screen Plaintiff's complaint, Defendant requests that the response be due
3 within thirty (30) days after the Court screens Plaintiff's first amended complaint. The Court will
4 grant Defendant's request.

5 Accordingly, it is HEREBY ORDERED that:

- 6 1. The April 29, 2010, Findings and Recommendations are VACATED; and
- 7 2. Defendant's July 14, 2010, request is GRANTED. Defendant's response to
8 Plaintiff's first amended complaint shall be due within thirty (30) days of the Court's
9 screening order on Plaintiff's first amended complaint.

10
11 IT IS SO ORDERED.

12 **Dated: September 15, 2010**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE