

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EDWARD ORTEGA,

Plaintiff,

v.

WARDEN JAMES A. YATES, et al.,

Defendants.

CASE NO. 1:09-cv-01476-AWI-SKO PC

ORDER VACATING FINDINGS AND RECOMMENDATIONS

(Doc. 12)

Plaintiff Edward Ortega (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On August 11, 2010, the Court issued a Findings and Recommendations that recommended that this action be dismissed due to Plaintiff’s failure to obey a court order. (Doc. #12.) The Findings and Recommendations issued after Plaintiff failed to file an amended complaint within the given deadline.

Plaintiff filed objections to the Findings and Recommendations on August 26, 2010. Plaintiff argues that he mailed his amended complaint on time and does not know why the Court did not receive it. Plaintiff attached another copy of his amended complaint to his objections.

Accordingly, it is HEREBY ORDERED that the August 11, 2010 Findings and Recommendations are VACATED. This action shall proceed on the amended complaint filed on August 26, 2010.

IT IS SO ORDERED.

Dated: September 7, 2010

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE