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

BERNARD C. HUGHES,

1:11-cv-00110-AWI-SAB-(PC)

Plaintiff,

ORDER GRANTING MOTION TO
AMEND AND VACATING FINDINGS
AND RECOMMENDATIONS

vs.

ROBERT BRUNER,

(Docket #19 & #20)

Defendant.

_____ /

Plaintiff Bernard C. Hughes (“Plaintiff”) is a prisoner proceeding *pro se* in a civil rights action pursuant to 42 U.S.C. § 1983. On November 14, 2012, the Court screened and dismissed Plaintiff’s First Amended Complaint and ordered Plaintiff to file a second amended complaint within twenty-one (21) days. (Doc. #18.) Plaintiff did not file a second amended complaint within twenty-one (21) days of the order and, on December 17, 2012, the Court issued Findings and Recommendations recommending dismissal of this action for failure to state a claim. (Doc. #19.)

On December 17, 2012, Plaintiff filed a motion informing the Court that Plaintiff did not receive the Court’s November 14, 2012 order until recently due to a change in Plaintiff’s address. (Doc. #20.) Plaintiff requested additional time to amend his complaint. On December 26, 2012, Plaintiff filed his Second Amended Complaint. (Doc. #23.) On January 2, 2013, Plaintiff filed objections to the Court’s December 17, 2012 Findings and Recommendations, on

1 the grounds that Plaintiff did not receive this Court's order to amend in time to comply with the
2 deadlines set forth therein. (Doc. #24.)

3 Good cause having been demonstrated, the Court will vacate its December 17, 2012
4 Findings and Recommendations and this action will proceed on Plaintiff's Second Amended
5 Complaint filed on December 26, 2012. Plaintiff's Second Amended Complaint will be
6 screened by the Court pursuant to 28 U.S.C. § 1915A on a later date.

7 Based on the foregoing, it is HEREBY ORDERED that:

- 8 1. The Court's December 17, 2012 Findings and Recommendations are
9 VACATED;
- 10 2. Plaintiff's December 17, 2012 motion is GRANTED; and
- 11 3. This action shall proceed on Plaintiff's Second Amended Complaint, filed on
12 December 26, 2012.

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14 IT IS SO ORDERED.

15 Dated: January 8, 2013

/s/ Stanley A. Boone
UNITED STATES MAGISTRATE JUDGE

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