1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 DWAYNE L. BURGESS, Case No. 1:11-cv-00921-LJO-JLT 12 Plaintiff. ORDER DISREGARDING DEFENDANTS' MOTION TO DISMISS 13 VS. (Doc. 12). 14 J. RAYA, et al., 15 Defendants. 16 Plaintiff Dwayne L. Burgess ("Plaintiff") is a state prisoner proceeding pro se with a civil 17 rights action pursuant to 42 U.S.C. § 1983. On December 27, 2012, Defendants filed a Motion to 18 19 Dismiss Plaintiff's First Amended Complaint. (Doc. 12). For the reasons described below, 20 Defendants' motion is DISREGARDED. Defendants removed Plaintiff's case to this Court on June 6, 2011. (Doc. 1). Because 21 22 Plaintiff's initial complaint sought redress from governmental employees in a civil action, this Court was required to screen his complaint in order to identify cognizable claims. 28 U.S.C. § 23 1915A(a)-(b). The Court's October 17, 2012 screening order dismissed Plaintiff's Complaint as 24 to all Defendants because it failed to state any cognizable claims. (Doc. 8). The Court gave 25 26 Plaintiff 21 days to amend his complaint and attempt to cure the deficiencies set forth in the 27 October 17, 2012 screening order. (Doc. 8). Plaintiff timely filed his First Amended Complaint on December 10, 2012. (Doc. 11). Defendants have filed their instant motion to dismiss 28

1	Plaintiff's FAC before the Court has had an opportunity to screen it for cognizable claims. Once
2	the Court has determined whether Plaintiff has stated cognizable claims against any named
3	Defendants, the Court will issue an order requiring Defendants to file a responsive pleading
4	Until that time, Defendants need not respond to the pleadings filed by Plaintiff.
5	Accordingly, it is HEREBY ORDERED that Defendants' Motion to Dismiss Plaintiff's
6	First Amended Complaint (Doc. 12) is DISREGARDED.
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8	ATT MG GO OPP TIPE
9	IT IS SO ORDERED.
10	Dated: December 28, 2012 /s/ Jennifer L. Thurston UNITED STATES MAGISTRATE JUDGE
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