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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 ROBERTO M. GARCIA,

11 Plaintiff,

12 vs.

13 J. JUAREZ,

14 Defendant.
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1:12-cv-00750-AWI-GSA-PC

ORDER FINDING PLAINTIFF'S
OBJECTIONS MOOT
(Doc. 13.)

ORDER STRIKING AMENDED
COMPLAINT LODGED ON JULY 5, 2013
AS DUPLICATIVE
(Doc. 14.)

16 Roberto M. Garcia ("Plaintiff") is a state prisoner proceeding pro se with this civil
17 action. Plaintiff filed the Complaint commencing this action on May 8, 2012. (Doc. 1.)

18 On June 14, 2013, the court entered findings and recommendations, recommending that
19 this action be dismissed for failure to state a claim, based on Plaintiff's failure to file a timely
20 First Amended Complaint pursuant to the court's order of May 10, 2013. (Doc. 10.) On June
21 14, 2013, Plaintiff filed the First Amended Complaint. (Doc. 11.) In light of the mailbox rule,¹
22 the court issued an order on June 25, 2013, vacating the findings and recommendations and
23 deeming Plaintiff's First Amended Complaint timely filed. (Doc. 12.)

24 On July 5, 2013, Plaintiff filed objections to the findings and recommendations and
25 submitted a copy of the First Amended Complaint, which was lodged by the court on July 5,
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27 ¹ Under the mailbox rule of Houston v. Lack, 487 U.S. 266, 108 S.Ct. 2379 (1988), a pro se prisoner's
28 court filing is deemed filed at the time the prisoner delivers it to prison authorities for forwarding to the court
clerk. Douglas v. Noelle, 567 F.3d 1103, 1107 (9th Cir. 2009).

1 2013. (Docs. 13, 14.) Plaintiff requested the court to deem the First Amended Complaint of
2 June 14, 2013 as timely filed, or to accept the copy of the First Amended Complaint lodged on
3 July 5, 2013 as timely filed.

4 Plaintiff's objections are moot because the court's order of June 25, 2013 vacated the
5 findings and recommendations and deemed the First Amended Complaint of June 14, 2013
6 timely filed. The lodged Amended Complaint shall be stricken as duplicative.

7 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that:

8 1. Plaintiff's objections to the findings and recommendations are moot, in light of
9 the court's order of June 25, 2013;

10 2. The Amended Complaint lodged on July 5, 2013, is STRICKEN from the record
11 as duplicative of the First Amended Complaint filed on June 14, 2013; and

12 3. Plaintiff's First Amended Complaint filed on June 14, 2013 shall be screened in
13 due time.

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17 IT IS SO ORDERED.

18 Dated: July 10, 2013

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE