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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 FRANKIE WASHINGTON,

11 Plaintiff,

12 vs.

13 D. OGLETREE, et al.,

14 Defendants.
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1:12-cv-01473-AWI-GSA-PC

ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(Doc. 13.)

ORDER DEEMING FIRST AMENDED
COMPLAINT TIMELY FILED
(Doc. 14.)

16 Frankie Washington ("plaintiff") is a state prisoner proceeding pro se in this civil rights
17 action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on
18 September 10, 2012. (Doc. 1.) On May 17, 2013, the court dismissed the Complaint for failure
19 to state a claim, with leave to amend within thirty days. (Doc. 13.) The thirty-day time period
20 expired, and Plaintiff failed to file an amended complaint.

21 On June 21, 2013, findings and recommendations were entered, recommending that this
22 action be dismissed based on plaintiff's failure to state a claim upon which relief may be
23 granted under §1983. (Doc. 13.) On July 15, 2013, Plaintiff filed objections to the findings
24 and recommendations, together with a First Amended Complaint. (Docs. 15, 16.)

25 In her objections, Plaintiff claims that she sent an amended complaint to the court on
26 June 10, 2013, which the court never received. Plaintiff asserts that the First Amended
27 Complaint, which she submitted with the objections, is an identical copy of the amended
28 complaint she timely sent to the court.

1 In light of the facts that Plaintiff claims she sent a timely amended complaint to the
2 court, which the court did not receive, and Plaintiff has now submitted the First Amended
3 Complaint, the findings and recommendations shall be vacated, and Plaintiff's First Amended
4 Complaint shall be deemed timely filed.

5 Accordingly, THE COURT HEREBY ORDERS that:

- 6 1. The Findings and Recommendations issued by the Magistrate Judge on April 15,
7 2013, are VACATED; and
- 8 2. Plaintiff's First Amended Complaint, filed on July 15, 2013, is deemed timely
9 filed.

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12 IT IS SO ORDERED.

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14 Dated: July 17, 2013

/s/ Gary S. Austin
15 UNITED STATES MAGISTRATE JUDGE
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