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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 CURTIS LEE HENDERSON,

12 Plaintiff,

13 vs.

14 SMITH, et al.,

15 Defendants.  
16

1:13-cv-00287-LJO-GSA-PC

ORDER VACATING FINDINGS AND  
RECOMMENDATIONS OF JUNE 20,  
2014  
(Doc. 23.)

ORDER DEEMING FIRST AMENDED  
COMPLAINT TIMELY FILED  
(Doc. 24.)

17 Curtis Lee Henderson ("Plaintiff") is a state prisoner proceeding pro se in this civil  
18 rights action pursuant to 42 U.S.C. § 1983.

19 On June 20, 2014, the undersigned issued findings and recommendations to dismiss this  
20 action for Plaintiff's failure to obey the court's order of May 8, 2014, which required him to file  
21 an amended complaint within thirty days. (Doc. 23.) On July 16, 2014, Plaintiff filed  
22 objections to the findings and recommendations, and also filed the First Amended Complaint.  
23 (Docs. 24, 25.)

24 Plaintiff cites delays by the prison mail room for his untimely filing of the First  
25 Amended Complaint. Plaintiff asserts that the mail room did not give him the findings and  
26 recommendations, which were served on June 20, 2014, until July 3, 2014, and that he prepared  
27 the First Amended Complaint on May 28, 2014 and served it in a timely manner. Plaintiff  
28 requests the court to excuse the delay, which was out of his control.

1 In light of Plaintiff's objections and his submission of the First Amended Complaint on  
2 July 16, 2014, the court finds good cause to vacate the findings and recommendations and deem  
3 the First Amended Complaint timely filed.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The findings and recommendations of June 20, 2014 are VACATED;
- 6 2. Plaintiff's First Amended Complaint, filed on July 16, 2014, is deemed timely  
7 filed; and
- 8 3. The court shall screen the First Amended Complaint in due time.

9  
10 IT IS SO ORDERED.

11 Dated: July 25, 2014

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