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5 **UNITED STATES DISTRICT COURT**
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7 **EASTERN DISTRICT OF CALIFORNIA**
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9 CHRISTOPHER EVAN VANDERWERFF,) 1:13-cv-00521-LJO-BAM (PC)
10 Plaintiff,)
11 v.) ORDER VACATING FINDINGS AND
12 K. ALLISON, et al.,) RECOMMENDATIONS REGARDING
13 Defendants.) DISMISSAL OF ACTION FOR FAILURE
14) TO STATE A CLAIM (ECF No. 17)
15) ORDER GRANTING PLAINTIFF’S
16) MOTION FOR FORTY-FIVE DAY
17) EXTENSION OF TIME TO AMEND
18) COMPLAINT (ECF No. 16)
19)
20) **Deadline:** July 24, 2014

21 Plaintiff Christopher Evan Vanderwerff (“Plaintiff”) is a state prisoner proceeding pro se
22 and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated
23 this action on February 13, 2013.

24 On April 25, 2014, the Court dismissed Plaintiff’s complaint for failure to state a claim,
25 with leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. §
26 1915(e). Plaintiff was warned that if he failed to file an amended complaint in compliance with
27 the order, this action would be dismissed for failure to state a claim. Plaintiff’s amended
28 complaint was due on or before May 28, 2014.¹

Plaintiff failed to file an amended complaint. As such, on June 6, 2014, the undersigned
issued Findings and Recommendations that this action be dismissed based on Plaintiff’s failure
to state any claims upon which relief may be granted. (ECF No. 17.) However, on the same

¹ The docket entry reflects a due date of 5/30/2014. (ECF No. 15.)

1 date, Plaintiff filed a motion requesting a forty-five (45) day extension of time to file his
2 amended complaint. The motion was dated May 22, 2014, which was before the deadline to file
3 any amended complaint, but was not received and entered on the Court's docket until June 6.
4 2014. In his moving papers, Plaintiff explains that he requires additional time to amend his
5 complaint due to his medical condition and hospitalization.

6 The Court finds good cause to vacate the findings and recommendations and to grant the
7 requested extension of time. Accordingly, IT IS HEREBY ORDERED as follows:

- 8 1. The Findings and Recommendations issued on June 6, 2014, are VACATED;
- 9 2. Plaintiff's motion for a forty-five (45) day extension of time to file his amended
10 complaint is GRANTED; and
- 11 3. Plaintiff's amended complaint, if any, shall be filed on or before July 24, 2014.

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13 IT IS SO ORDERED.

14 Dated: June 9, 2014

15 /s/ Barbara A. McAuliffe
16 UNITED STATES MAGISTRATE JUDGE
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