

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DALE L. COTTRELL,)	Case No.: 1:13-cv-01530-LJO-SAB (PC)
Plaintiff,)	
v.)	ORDER VACATING FINDINGS AND RECOMMENDATION IN LIGHT OF FILING OF AMENDED COMPLAINT
FELIX IGBINOSA, et al.,)	[ECF No. 15]
Defendants.)	
)	
)	

Plaintiff Dale L. Cottrell is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 25, 2014, Plaintiff’s complaint was dismissed with leave to amend for failure to state a cognizable claim for relief. After requesting and receiving two extensions of time, Plaintiff failed to file a timely amended complaint in compliance with the Court’s March 25, 2014, order. As a result, there was no pleading on file which sets forth a cognizable claim for relief. Accordingly, on June 30, 2014, the undersigned issued a Findings and Recommendation to dismiss the action for failure to state a cognizable claim for relief. Plaintiff filed objections to the Findings and Recommendation on July 23, 2014.

On the same day the Findings and Recommendation was issued, Plaintiff filed a notice that his amended complaint, although prepared timely, was returned to him through the mailing system prior to submission for filing to this Court, along with the filing of the amended complaint. Plaintiff

1 indicates that he submitted his amended complaint to a correctional officer for mailing on June 7,
2 2014, which was timely under the deadlines set by the Court. However, on June 24, 2014, the
3 amended complaint submitted on June 7, 2014, was returned to Plaintiff with no explanation.

4 In light of the fact that Plaintiff has now filed an amended complaint, the Court will vacate the
5 Findings and Recommendation issued June 30, 2014.

6 Accordingly,

7 IT IS HEREBY ORDERED that:

- 8 1. The Findings and Recommendation issued June 30, 2014, is VACATED; and
- 9 2. Plaintiff is advised that the Court will screen the amended complaint filed on June 30,
10 2014, in due course.

11
12 IT IS SO ORDERED.

13 Dated: July 24, 2014



UNITED STATES MAGISTRATE JUDGE