1 2 3 <u>4</u> 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 MIGUEL DIAZ. CASE NO. 1:13-cv-1627-LJO-MJS (PC) 12 Plaintiff, ORDER (1) VACATING FINDINGS AND RECOMMENDATIONS (ECF No. 18), (2) 13 ٧. DISCHARGING ORDER CAUSE (ECF No. 17), AND GRANTING 14 STU SHERMAN, et al., REQUEST FOR EXTENSION OF TIME 15 (ECF No. 19) Defendants. 16 THIRTY (30) DAY DEADLINE 17 18 PROCEDURAL HISTORY 19 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil 20 rights action brought pursuant to 42 U.S.C. § 1983. 21 On January 30, 2014, Plaintiff's complaint was dismissed for failure to state a 22 claim, but he was given leave to file a first amended complaint. (ECF No. 10.) Plaintiff 23 sought and was granted two extensions of time to file an amended complaint. (ECF Nos. 24 13, 14, 15, 16.) 25 The second extension was granted and served on May 29, 2014. It gave Plaintiff 26 thirty days from that date to file his amended complaint. The deadline passed without 27 Plaintiff either filing an amended pleading or seeking an extension of time to do so.

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On July 10, 2014, the Court ordered Plaintiff to show cause within fourteen days why the action should not be dismissed with prejudice for failure to obey a court order and failure to prosecute. (ECF No. 17.) Plaintiff did not timely respond to the order.

On July 30, the Court issued findings and a recommendation to dismiss the action. (ECF No. 18.)

On August 6, 2014, Plaintiff filed his response to the Court's order to show cause. (ECF No.19.) Plaintiff explained that he recently received a brace to alleviate his wrist pain, but that his pain continued to increase with typing and writing, preventing him from complying with all of the Court's orders in his various cases. Plaintiff seeks an additional thirty day extension to file his amended complaint in this action.

The Court finds good cause for Plaintiff's failure to timely comply with the Court's order to file an amended complaint. (ECF No. 16.) Accordingly, it is HEREBY ORDERED:

- The Court's Findings and Recommendation to Dismiss Action for Failure to Obey Court Order and Failure to Prosecute (ECF No. 18) are VACATED;
- 2. The Court's Order to Show Cause (ECF No. 17) is DISCHARGED; and
- 3. Plaintiff is granted thirty (30) days from the date of service of this order in which to file an amended complaint.

IT IS SO ORDERED.

Dated: August 13, 2014 /sl Michael J. Seng
UNITED STATES MAGISTRATE JUDGE