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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID HARRING,
Plaintiff,
v.
CHRISTOPHER MARTENS,
Defendant.

No. 1:14-cv-0310 AWI-BAM
**ORDER VACATING FINDINGS AND
RECOMMENDATIONS**
(Doc. 10)
**ORDER DEEMING FIRST AMENDED
COMPLAINT TIMELY FILED**
(Doc. 11)

Plaintiff, David Haring (“Plaintiff”), a state prisoner housed at Kern Valley State Prison, proceeding *pro se* and *in forma pauperis*, has filed this civil action seeking monetary damages and other relief.

On April 16, 2014, the Court dismissed Plaintiff’s initial complaint in this matter for failure to state a claim upon which relief may be granted and ordered Plaintiff to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). On May 22, 2014, the Court granted an extension of time for plaintiff to file an amended complaint. Plaintiff failed to file a timely First Amended Complaint, and on June 26, 2014, this Court issued Findings and Recommendations to dismiss this action for Plaintiff’s failure to obey the Court’s order. (Doc. 10).

1 On July 23, 2014, Plaintiff filed objections to the Findings and Recommendations,¹ and
2 also a First Amended Complaint. (Doc. 11). Plaintiff cites delays by the prison mail room for
3 his untimely First Amended Complaint. Plaintiff asserts that he prepared his First Amended
4 Complaint well before the submission deadline and served it on the prison mail room in a timely
5 manner. Plaintiff requests the Court to excuse the delay, which was out of his control.

6 In light of Plaintiff's objections and his submission of the First Amended Complaint on
7 July 23, 2014, the Court finds good cause to vacate the Findings and Recommendations and deem
8 the First Amended Complaint timely filed.

9 Accordingly, **IT IS HEREBY ORDERED** that:

- 10 1. The Findings and Recommendations filed June 26, 2014 (Doc. 10) are
11 VACATED;
- 12 2. Plaintiff's First Amended Complaint, filed on July 23, 2014, is deemed timely
13 filed (Doc. 11); and
- 14 3. The Court shall screen the First Amended Complaint in due course.

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16 IT IS SO ORDERED.

17 Dated: August 1, 2014

/s/ Barbara A. McAuliffe
18 UNITED STATES MAGISTRATE JUDGE

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¹ Plaintiff's objections are styled as a motion for reconsideration to file his amended complaint