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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDRE LEIVA,
Plaintiff,
v.
W. JACKSON,
Defendant.

Case No. 1:16-cv-00167-AWI-EPG (PC)
ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(ECF NO. 11)

Andre Leiva (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. On March 31, 2017, the Court screened Plaintiff’s complaint and found that it failed to state a claim upon which relief could be granted. (ECF No. 10). The Court gave Plaintiff thirty days from the date of service of the screening order to file an amended complaint or to notify the Court that he wanted to stand on his complaint, subject to the Court issuing findings and recommendations consistent with the screening order to the assigned district judge. (Id.). The Court also warned Plaintiff that failure to file an amended complaint or to notify the court that he wanted to stand on his complaint could result in the dismissal of this case. (Id. at p. 6).

The time period expired, and Plaintiff did not file an amended complaint or notify the

1 Court that he wanted to stand on his complaint. Accordingly, the Court issued findings and
2 recommendations, recommending that Plaintiff's case be dismissed, with prejudice, for failure to
3 state a claim, failure to comply with a court order, and failure to prosecute. (ECF No. 11).

4 On June 5, 2017, Plaintiff filed objections to the findings and recommendations. (ECF
5 No. 12). According to Plaintiff, he filed an amended complaint on or around April 25, 2017.
6 (Id.). Based on Plaintiff's representations, the Court issued an order giving Plaintiff twenty-one
7 days to file his amended complaint. (ECF No. 14, p. 2). The Court informed Plaintiff that if he
8 filed his amended complaint within this twenty-one day period, the Court would vacate its
9 findings and recommendations. (Id.).

10 On July 5, 2017, Plaintiff filed his First Amended Complaint. (ECF No. 16). Therefore,
11 the Court will vacate its findings and recommendations, and Plaintiff's First Amended Complaint
12 will be screened in due course.

13 Accordingly, based on the foregoing, IT IS ORDERED that the findings and
14 recommendations the Court issued on May 17, 2017 (ECF No. 11), are VACATED.

15 IT IS SO ORDERED.

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17 Dated: July 6, 2017

18 /s/ Eric P. Gray
19 UNITED STATES MAGISTRATE JUDGE
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