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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RICKY RIVERA,  
Plaintiff,  
v.  
DAVE DAVEY, et al.,  
Defendants.

Case No.: 1:16-cv-01817-AWI-BAM (PC)  
ORDER VACATING FINDINGS AND  
RECOMMENDATIONS  
(ECF No. 19)  
ORDER GRANTING MOTION FOR  
EXTENSION OF TIME TO FILE AMENDED  
COMPLAINT **WITHIN THIRTY DAYS**  
(ECF No. 20)

Plaintiff Ricky Rivera is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil action pursuant to 42 U.S.C. § 1983.

**I. Background**

On November 22, 2017, the undersigned screened Plaintiff's complaint, found that he had failed to state any cognizable claim, and granted him leave to amend within thirty (30) days. (ECF No. 14.) Plaintiff failed to amend, and on January 11, 2018, the Court issued findings and recommendations recommending dismissal of this action. (ECF No. 15.) Plaintiff filed a motion seeking an extension of time to amend his complaint, (ECF No. 16), and therefore on January 16, 2018, the Court vacated the findings and recommendations and granted Plaintiff an additional thirty days to file an amended complaint, (ECF No. 16.)

1           Rather than file an amended complaint, on February 9, 2018, Plaintiff filed objections  
2 arguing that he had sufficiently pleaded a cognizable claim in his original complaint. (ECF No.  
3 18.) On March 22, 2018, the Court issued findings and recommendations that it had considered  
4 Plaintiff's objections, but nevertheless found that his complaint failed to state a cognizable claim  
5 for relief. (ECF No. 19.) Thus, the Court recommended dismissal of this action, and allowed  
6 fourteen (14) days for objections. (*Id.*)

## 7           **II. Request for Extension of Time**

8           Currently before the Court is Plaintiff's motion to extend the deadline for objections to the  
9 findings and recommendations, with a declaration in support, filed on April 9, 2018. (ECF No.  
10 20.) Plaintiff asserts in the motion that as a layman at the law with a limited education, he  
11 misunderstood the Court's prior screening order and findings and recommendations. Plaintiff has  
12 since found a fellow inmate to assist him with his action, and now seeks leave to file a first  
13 amended complaint curing the deficiencies previously identified by the Court, as opposed to  
14 standing on his original complaint. Plaintiff asserts that he previously failed to amend based on  
15 his pro se status and misunderstanding, but is diligently working on amended allegations.  
16 Therefore, he seeks a thirty (30) day extension of time to now file an amended complaint in  
17 compliance with the Court's November 22, 2017 screening order.

18           The Court finds that the interests of justice are best served by allowing Plaintiff an  
19 opportunity to amend his complaint, and that he has shown diligence and good cause under the  
20 circumstances. Therefore, one final extension of time will be granted. Because Plaintiff has now  
21 been granted multiple extensions of time to file an amended complaint, no further extensions of  
22 time will be granted absent extraordinary cause.

## 23           **III. Conclusion**

24           Accordingly, it is HEREBY ORDERED that:

- 25           1. The findings and recommendations issued on March 22, 2018 (ECF No. 15), are  
26 vacated;
- 27           2. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an  
28 amended complaint;

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3. No extension of time of the deadline set in this order shall be granted.

IT IS SO ORDERED.

Dated: April 15, 2018

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE