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

SANTOS VALENZUELA,)	Case No.: 1:17-cv-01440-LJO-SAB (PC)
Plaintiff,)	
v.)	ORDER VACATING NOVEMBER 13, 2018
SMITH, et al.,)	FINDINGS AND RECOMMENDATIONS, AND
Defendants.)	GRANTING PLAINTIFF THIRTY DAYS TO FILE
)	AN AMENDED COMPLAINT
)	[ECF Nos. 29, 30]
)	
)	
)	

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

On November 2, 2017, the Court found that Plaintiff’s complaint failed to state a cognizable claim for relief and granted plaintiff thirty days to file an amended complaint addressing the deficiencies identified by the Court. (ECF No. 15.) On November 28, 2017, at Plaintiff’s request, the Court granted Plaintiff an additional thirty days to file an amended complaint. (ECF No. 16, 17.) After more than thirty days passed, on January 4, 2018, the Court ordered Plaintiff to show cause why the action should not be dismissed for failure to comply with a court order. (ECF No. 18.) Plaintiff failed to respond to the Court’s order.

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1 Therefore, on January 31, 2018, the Magistrate Judge issued Findings and Recommendations
2 recommending that the action be dismissed for failure to comply with a court order. (ECF No. 19.)
3 The Findings and Recommendations were served on Plaintiff and contained notice that objections
4 were to be filed within fourteen days. Plaintiff did not file objections, and the Findings and
5 Recommendations were adopted in full on March 22, 2018, and the action was dismissed. (ECF No.
6 21.)

7 On August 6, 2018, Plaintiff filed a motion for reconsideration. (ECF No. 23.) Plaintiff
8 requested the Court to reopen the action because he had been undergoing mental health treatment and
9 had been transferred to multiple different facilities and denied access to the court and his legal
10 materials. (ECF. No. 21.) As a result, Plaintiff claimed he was unable to respond to the Court's
11 orders. (Id.) On August 8, 2018, the undersigned granted Plaintiff's request to reopen the action, and
12 directed Plaintiff to file an amended complaint within thirty days. (ECF No. 24.)

13 On August 31, 2018, and October 5, 2018, the Court granted Plaintiff thirty additional days to
14 file the amended complaint, resulting in a deadline of November 5, 2018. (ECF Nos. 26, 28.) Plaintiff
15 failed to file an amended complaint on or before November 5, 2018. Therefore, on November 13,
16 2018, the undersigned issued Findings and Recommendations recommending that the action be
17 dismissed. (ECF No. 29.) On this same date, Plaintiff filed a motion for an extension of time to file
18 an amended complaint, which was placed on the docket after the issuance of the Findings and
19 Recommendations. (ECF No. 30.) In his motion, Plaintiff submits that on November 1, 2018, he was
20 transferred to the California Health Care Facility in Stockton, and is without his legal materials. (Id.)

21 On the basis of good cause, the Court will vacate the November 13, 2018 Findings and
22 Recommendations and grant Plaintiff thirty additional days to file an amended complaint.

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Accordingly, it is HEREBY ORDERED that:

1. The Findings and Recommendations issued on November 13, 2018 (ECF No. 29), are VACATED; and
2. Plaintiff is granted thirty days from the date of service of this order to file an amended complaint in compliance with the Court's November 2, 2017 screening order.

IT IS SO ORDERED.

Dated: November 15, 2018


UNITED STATES MAGISTRATE JUDGE