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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	JERRY McDOWELL,	Case No. 1:17-cv-01665-LJO-BAM (PC)
12	Plaintiff,	ORDER VACATING FINDINGS AND RECOMMENDATIONS
13	v.	(ECF No. 15)
14	RIVERA, et al.,	ORDER DIRECTING CLERK OF COURT TO RE-SERVE AUGUST 14, 2018 SCREENING
15	Defendants.	ORDER ON PLAINTIFF (ECF No. 14)
16		ORDER REQUIRING PLAINTIFF TO FILE A
17		SECOND AMENDED COMPLAINT
18		THIRTY (30) DAY DEADLINE
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20	Plaintiff Jerry McDowell ("Plaintiff") is a former state prisoner proceeding <i>pro se</i> and <i>in</i>	
21	<i>forma pauperis</i> in this civil rights action pursuant to 42 U.S.C. § 1983.	
22	On July 30, 2018, Plaintiff filed a notice of change of address to his current address of	
23	record. (ECF No. 13.) On August 14, 2018, the Court issued an order screening Plaintiff's first	
24	amended complaint and granting Plaintiff leave to file a second amended complaint. The order	
25 26	was mailed to Plaintiff's updated address in Fontana, California. (ECF No. 14.) The order was	
26	not returned to the Court as undeliverable, and no other communication was received from	
27	Plaintiff.	
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1	Thus, on October 4, 2018, the Court issued findings and recommendations to dismiss this		
2	action, with prejudice, for Plaintiff's failure to state a claim, failure to obey a court order, and		
3	failure to prosecute. (ECF No. 15.) Those findings and recommendations were served on		
4	Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14)		
5	days after service. (Id. at 11.)		
6	Currently before the Court are Plaintiff's objections, filed October 18, 2018. (ECF No.		
7	16.) Plaintiff states that he never received the Court's August 14, 2018 screening order granting		
8	leave to amend, and requests an extension of time to file his amended complaint. (Id.)		
9	As it appears that Plaintiff did not receive the Court's prior screening order, the Court		
10	finds good cause to vacate the pending findings and recommendations and permit Plaintiff		
11	another opportunity to file a second amended complaint. Plaintiff should not be penalized for		
12	failure to obey a court order that he did not receive.		
13	Accordingly, IT IS HEREBY ORDERED as follows:		
14	1. The findings and recommendations issued on October 4, 2018, (ECF No. 15), are		
15	VACATED;		
16	2. The Clerk's Office shall re-serve the Court's August 14, 2018 screening order, (ECF		
17	No. 14) on Plaintiff at his current address of record;		
18	3. The Clerk's Office shall send Plaintiff a complaint form;		
19	4. Within <b>thirty (30) days</b> from the date of service of this order, Plaintiff shall file a		
20	second amended complaint in compliance with the Court's screening order; and		
21	5. If Plaintiff fails to file a second amended complaint in compliance with this order,		
22	this action will be dismissed, with prejudice, for failure to obey a court order and		
23	<u>failure to state a claim</u> .		
24	IT IS SO ORDERED.		
25	IT IS SO ORDERED.		
26	Dated: October 24, 2018 /s/ Bashara A. McAuliffe UNITED STATES MAGISTRATE JUDGE		
27	UNITED STATES MAGISTRATE JUDGE		
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