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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY GRAHAM,  
Plaintiff,

No. 2:08-cv-2533 GEB KJN P

vs.

M. JAFFE, et al.,  
Defendants.

ORDER

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Plaintiff is a state prisoner proceeding without counsel with a civil rights action pursuant to 42 U.S.C. § 1983. On June 4, 2010, the magistrate judge recommended that this action be dismissed based on plaintiff's failure to file a second amended complaint after receiving two extensions of time. On July 22, 2010, the undersigned adopted the findings and recommendations and this action was dismissed.

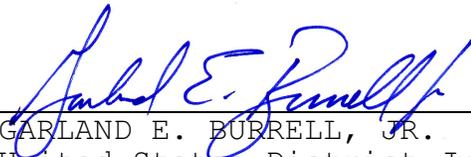
However, on July 13, 2010, plaintiff filed a second amended complaint. On July 27, 2010, plaintiff filed a request for extension of time to file objections to the findings and recommendations. Plaintiff states the second amended complaint was given to prison officials on May 27, 2010 for mailing to the court. Plaintiff claims he has been unable to submit a second copy of the second amended complaint because he has been housed in administrative segregation. The July 13, 2010 second amended complaint was signed by plaintiff on May 26, 2010.

1 Good cause appearing, plaintiff's second amended complaint will be deemed  
2 timely filed. See Houston v. Lack, 487 U.S. 266 (1988) (prisoner documents are deemed filed as  
3 of the date they are delivered to prison officials for mailing). Plaintiff's July 27, 2010 motion for  
4 extension will be denied as unnecessary. The July 22, 2010 order and judgment will be vacated,  
5 and this action will be remanded to the magistrate judge for further proceedings.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's July 27, 2010 motion (dkt. no. 29) is denied;
- 8 2. The July 22, 2010 order and judgment (dkt. nos. 27-28) are vacated, and this  
9 action is re-opened;
- 10 3. Plaintiff's July 13, 2010 second amended complaint (dkt. no. 26) is deemed  
11 timely filed; and
- 12 4. This action is remanded to the magistrate judge for further proceedings.

13 Dated: August 25, 2010

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GARLAND E. BURRELL, JR.  
United States District Judge