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

JAMES ARMSTEAD,

Plaintiff,

No. 2: 11-cv-1054 JAM KJN P

vs.

TIM V. VIRGA, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. For the following reasons, plaintiff is granted twenty-one days to file an opposition to defendants’ motion to dismiss.

On November 3, 2011, defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff did not oppose the motion to dismiss. On January 20, 2012, the undersigned recommended that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b). On February 23, 2012, the Honorable John A. Mendez adopted the January 20, 2012 findings and recommendations.

On February 13, 2012, plaintiff filed a motion for an extension of time to file objections to the findings and recommendations. Plaintiff’s motion for extension of time was not in the court file when Judge Mendez reviewed the findings and recommendations. Accordingly,

1 on March 21, 2012, Judge Mendez vacated the February 23, 2012 order and judgment, and
2 granted plaintiff thirty days to file objections to the findings and recommendations.


3 On April 5, 2012, plaintiff filed objections. In the objections, plaintiff alleges that
4 defendants violated his rights. Attached as exhibits to the objections are a copy of the June 28,
5 2011 amended complaint and a “memorandum of points and authorities.” It is not clear if
6 plaintiff intends the points and authorities attached to his objections to be his opposition to
7 defendants’ motion to dismiss.

8 Good cause appearing, the January 20, 2012 findings and recommendations are
9 vacated. Plaintiff is granted twenty-one days to file an opposition to defendants’ motion to
10 dismiss. Failure to file an opposition will be deemed a waiver of opposition. If plaintiff intends
11 the points and authorities attached to his objections to be his opposition, he shall file a short
12 statement to that effect.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The January 20, 2012 findings and recommendations are dismissed;
15 2. Plaintiff is granted twenty-one days to file an opposition to defendants’ motion
16 to dismiss.

17 DATED: April 10, 2012

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

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arm1054.opp