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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VANCE BLAINE,

Plaintiff,

v.

CALIFORNIA HEALTH CARE
FACILITY, et al.,

Defendants.

No. 2:13-cv-2163 KJM AC P

ORDER


On April 25, 2014, the undersigned filed Findings and Recommendations that were filed on April 28, 2014, which recommended dismissal of this action because plaintiff had failed to file an amended complaint within the time provided. Also on April 25, 2014, the Clerk docketed an amended complaint that was signed by plaintiff on April 19, 2014.¹ ECF No. 13. Accordingly, the court will vacate the previous recommendation that the action be dismissed with prejudice for failure to file an amended complaint or otherwise respond to the court's previous order. Upon screening of the first amended complaint, a further order will issue.

¹ Although file-stamped April 24, 2014 (and entered on the docket a day later), the court applies the mailbox rule to this filing. Houston v. Lack, 487 U.S. 266, 275 76 (1988)(pro se prisoner filing is dated from the date prisoner delivers it to prison authorities); Douglas v. Noelle, 567 F.3d 1103, 1109 (9th Cir. 2009), holding that “the Houston mailbox rule applies to § 1983 complaints filed by pro se prisoners.”).

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Accordingly, IT IS HEREBY ORDERED that the Findings and Recommendations (ECF No. 15) filed on April 28, 2014 are VACATED.

DATED: May 1, 2014



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE