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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL DIAZ,
Plaintiff,
v.
R. FOX, et al.,
Defendants.

No. 2:14-cv-2705 JAM CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. On May 28, 2015, undersigned filed findings and a recommendation that this action be dismissed with prejudice for failure to state a claim.

Plaintiff has filed objections to the findings and recommendation and seeks leave to file a second amended complaint. In light of plaintiff's request, the court will vacate its recommendation that this action be dismissed with prejudice. Rather, the undersigned will dismiss the First Amended Complaint with leave to amend a second time.

Accordingly, IT IS HEREBY ORDERED that:

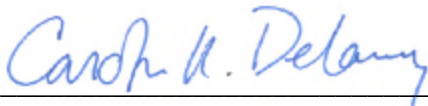
1. The findings and recommendations filed May 28, 2015, are partially vacated as follows:
2. The First Amended Complaint is dismissed for failure to state a claim; and

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3. Plaintiff is granted thirty days from the date of service of this order to file a Second Amended Complaint. Failure to file an amended complaint in accordance with this order will result in a recommendation that this action be dismissed.

Dated: July 14, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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