

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES E. SMITH,

1:06-cv-01219-SMS-PC

Plaintiff,

ORDER DISMISSING ACTION, WITH
PREJUDICE, FOR FAILURE TO STATE A
CLAIM UPON WHICH RELIEF MAY BE
GRANTED

vs.

(Doc. 23.)

KNOWLES, et al.,

Defendants.

ORDER FOR CLERK TO CLOSE CASE

Plaintiff James E. Smith ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on September 7, 2006. (Doc. 1.) On September 19, 2006, Plaintiff consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1), and on December 24, 2008, the court reassigned this action to the undersigned. (Docs. 3, 28.)

On September 19, 2008, the undersigned dismissed Plaintiff's complaint for failure to state a claim upon which relief may be granted and ordered Plaintiff to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). (Doc. 23.) To date, Plaintiff has not complied with or otherwise responded to the Court's order. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted under section 1983.

Accordingly, IT IS HEREBY ORDERED that this action is DISMISSED, with prejudice, based on Plaintiff's failure to state any claims upon which relief may be granted under section 1983. IT IS SO ORDERED.

Dated: January 27, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE