

## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

ABNER H. LISTER,

1:07-cv-00813-SMS-PC

Plaintiff,

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

v.

DIRECTOR OF CDC, et al.,

ORDER FOR CLERK TO CLOSE CASE

Defendants.

Plaintiff Abner H. Lister (“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 June 4, 2007. (Doc. 1.) On June 13, 2007, Plaintiff consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1). (Doc. 7.) On November 26, 2008, this case was reassigned to the undersigned to conduct any and all further proceedings in the case, including entry of a final judgment. (Doc. 9.)

On December 1, 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. 10.) 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, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), 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 23, 2009

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE