

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

Joseph Johnson, Jr., ) No. CV 1-07-1408-NVW  
Plaintiff, )  
vs. ) **ORDER**  
State of California, et al., )  
Defendants. )

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14 Before the Court is Plaintiff's Motion/Request to Dismiss his Complaint (doc. #  
15 12) without prejudice, as he has lost interest in prosecuting it. Plaintiff is otherwise under  
16 order of the Court to file an amended complaint by May 1, 2009, failing which this action  
17 will be dismissed with prejudice. (Doc. # 11.) Plaintiff's Motion plainly shows an intent  
18 not to file an amended complaint within the required time, so the action will be dismissed  
19 with prejudice. However, since Plaintiff is voluntarily dismissing his complaint, he will  
20 not be assessed a "strike" under 28 USC 1915(g).

21 IT IS THEREFORE ORDERED that Plaintiff's Motion/Request to Dismiss his  
22 Complaint (doc. # 12) is granted, except that the action will be dismissed with prejudice  
23 pursuant to the order of April 1, 2009. (Doc. # 11.) The Clerk shall enter judgment  
24 dismissing this action with prejudice and shall terminate this action.

DATED this 15<sup>th</sup> day of April, 2009.

*Neil V. Wake*  
Neil V. Wake  
United States District Judge