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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RENE BUSTAMANTE,

1:08-cv-01791-GSA-PC

Plaintiff,

ORDER DISMISSING THIS ACTION, WITH
PREJUDICE, FOR FAILURE TO STATE A
CLAIM UPON WHICH RELIEF MAY BE
GRANTED
(Doc. 1.)

v.

DAVIS, et al.,

Defendants.

ORDER FOR CLERK TO CLOSE CASE

Plaintiff Rene Bustamante ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on November 21, 2008. (Doc. 1.) On December 4, 2008, Plaintiff consented to Magistrate Judge jurisdiction in this action, and no other parties have made an appearance. Local Rule Appendix A(k)(3). (Doc. 5.)

On September 28, 2009, the undersigned dismissed Plaintiff's complaint for failure to state a claim upon which relief may be granted and gave Plaintiff leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). (Doc.6.) 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:

1. This action is DISMISSED, without prejudice, based on Plaintiff's failure to state any claims upon which relief may be granted under section 1983; and
2. The Clerk is DIRECTED to close this case.

IT IS SO ORDERED.

Dated: November 24, 2009

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE