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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARTIN GAONA,

CASE NO. 1:09-cv-00999-SKO PC

Plaintiff,

ORDER DISMISSING ACTION

v.

JAMES YATES, et al.,

Defendants.

Plaintiff Martin Gaona (“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 has consented to jurisdiction by U.S. Magistrate Judge. (Doc. #5.)

On July 19, 2010, the Court screened Plaintiff’s first amended complaint pursuant to 28 U.S.C. § 1915A(a). (Doc. #12.) The Court found that Plaintiff’s first amended complaint failed to state any claims upon which relief can be granted. The Court informed Plaintiff of the deficiencies in his claims and provided Plaintiff with leave to file a second amended complaint that cured the deficiencies in his claims. Plaintiff was ordered to file his second amended complaint within thirty days of the date of service of the July 19, 2010 order. Plaintiff’s second amended complaint was due on August 23, 2010.

Plaintiff has not filed a second amended complaint. Therefore, the Court will dismiss the claims raised in Plaintiff’s first amended complaint, with prejudice, for failing to state any claims upon which relief can be granted.

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Accordingly, it is HEREBY ORDERED that:

1. This action is dismissed for Plaintiff's failure to state any claims upon which relief can be granted; and
2. The Clerk is directed to close this action.

IT IS SO ORDERED.

Dated: September 15, 2010

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE