

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JASON R. HUCKER, CASE NO. 1:09-cv-1262-MJS (PC)
Plaintiff,
v.
DEPARTMENT OF CORRECTIONS, et al.,
Defendants. ORDER DISMISSING CASE WITH
PREJUDICE FOR FAILURE TO STATE A
CLAIM UPON WHICH RELIEF COULD BE
GRANTED
CLERK SHALL CLOSE THE CASE

Plaintiff Jason R. Hucker (“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 the Magistrate Judge in this action. (ECF No. 4.)

On November 24, 2010, the Court ordered that Plaintiff's Complaint be dismissed for failure to state a claim. (ECF No. 10.) Plaintiff was given thirty days to file an amended complaint and was warned that failure to do so would result in dismissal of this action for failure to state claim upon which relief could be granted. (Id.) When Plaintiff failed to meet this deadline, the Court ordered Plaintiff to show cause as to why his case should not be dismissed. (ECF No. 11.) Plaintiff was again warned that failure to comply with the Court's order would result in dismissal. (Id.)

Plaintiff's response to the Show Cause Order was due February 1, 2011. Plaintiff has failed to file an amended complaint or otherwise respond 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.

Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action is HEREBY DISMISSED, with prejudice, based on Plaintiff's failure to state any claims upon which relief may be granted under section 1983. This dismissal SHALL count as a strike under 28 U.S.C. § 1915(g). The Clerk shall close the case.

IT IS SO ORDERED.

Dated: February 19, 2011

Is/ Michael J. Song
UNITED STATES MAGISTRATE JUDGE