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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOHN VICKERY,

Plaintiff,

v.

DR. S. LOPEZ, et al.,

Defendants.

CASE NO. 1:09-cv-01358-SMS PC

ORDER (1) DISMISSING STATE LAW CLAIMS, WITHOUT PREJUDICE, FOR LACK OF JURISDICTION, AND (2) DISMISSING ACTION, WITH PREJUDICE, FOR FAILURE TO STATE ANY CLAIMS UNDER SECTION 1983

(Doc. 6)

ORDER COUNTING DISMISSAL AS A STRIKE UNDER 28 U.S.C. § 1915(G)

_____ /

Plaintiff John Vickery, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 and California tort law on August 4, 2009. On February 11, 2010, the Court dismissed Plaintiff’s complaint for failure to state any claims under section 1983, and ordered Plaintiff to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). After obtaining two extensions of time, Plaintiff failed to comply with 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, it is HEREBY ORDERED that:

1. Plaintiff’s state law tort claims are dismissed from this action, without prejudice, for lack of jurisdiction;

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2. This action is dismissed, with prejudice, based on Plaintiff's failure to state any claims upon which relief may be granted under section 1983; and

3. This dismissal shall count as a strike under 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

Dated: November 10, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE