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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

R. TOTH,

Plaintiff,

vs.

MATHEW CATE, et al.,

Defendants.

1:09-cv-01432-GSA-PC

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

ORDER FOR CLERK TO CLOSE CASE

_____ /

Plaintiff R. Toth (“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 August 14, 2009. (Doc. 1.) On August 26, 2009, Plaintiff consented to Magistrate Judge jurisdiction in this action, and no other parties have made an appearance. (Doc. 4.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall conduct any and all proceedings in the case until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

On February 12, 2010, 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. 12.) 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.

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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 Plaintiff’s failure to obey the court's order; and
2. The Clerk is DIRECTED to close this case.

IT IS SO ORDERED.

Dated: April 23, 2010

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE