

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEON HAYGOOD,

Plaintiff,

vs.

1: 09 CV 01489 YNP GSA (PC)

ORDER DISMISSING ACTION

WARDEN GONZALES,

Defendant.

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1).

By order filed January 7, 2010, the operative complaint was dismissed for failure to state a claim. Plaintiff was granted leave to file an amended complaint, and directed to do so within thirty days. Plaintiff has not filed an amended complaint. Accordingly, on February 17, 2010, an order to show cause was entered, directing Plaintiff to show cause why this action should not be dismissed for failure to state a claim upon which relief could be granted. Plaintiff has not responded to the order to show cause.

In the January 7, 2010, order the Court informed Plaintiff of the deficiencies in his complaint, and dismissed the complaint on the ground that Plaintiff had failed to state a claim upon which relief could be granted. Because Plaintiff has not filed an amended complaint, the

1 Court dismisses the claims made in the original complaint without prejudice for failure to state a
2 federal claim upon which the court could grant relief. See Noll v. Carlson, 809 F. 2d 1446, 1448
3 (9th Cir. 1987) (prisoner must be given notice of deficiencies and opportunity to amend prior to
4 dismissing for failure to state a claim).

5 Accordingly, IT IS HEREBY ORDERED that this action is dismissed for failure
6 to state a claim upon which relief can be granted. The Clerk is directed to close this case.

7
8
9 IT IS SO ORDERED.

10 Dated: April 7, 2010

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE