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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STEPHEN GARCIA,	CASE NO. 1:10-cv-00605-SKO PC
Plaintiff,	ORDER DISMISSING ACTION, WITH PREJUDICE, FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED UNDER SECTION 1983
v.	(Docs. 1 and 7)
FRESNO DEPARTMENT OF CORRECTIONS,	ORDER COUNTING DISMISSAL AS A STRIKE UNDER 28 U.S.C. § 1915(G)
Defendant.	

Plaintiff Stephen Garcia, a prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 7, 2010. On May 6, 2011, the Court dismissed Plaintiff’s complaint for failure to state a claim 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). 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.

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1 Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action is
2 HEREBY DISMISSED, with prejudice, based on Plaintiff's failure to state any claims upon which
3 relief may be granted under section 1983. This dismissal SHALL count as a strike under 28 U.S.C.
4 § 1915(g).

5
6 IT IS SO ORDERED.

7 **Dated: June 28, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE